

CHINO BASIN WATERMASTER



NOTICE OF MEETINGS

Thursday, July 9, 2026

- 9:00 a.m. – Appropriative Pool Committee Meeting
- 11:00 a.m. – Non-Agricultural Pool Committee Meeting
- 1:30 p.m. – Agricultural Pool Committee Meeting

*Watermaster's function is to administer and enforce provisions of the Judgment and subsequent orders of the Court,
and to develop and implement an Optimum Basin Management Program*

**CHINO BASIN WATERMASTER
APPROPRIATIVE POOL COMMITTEE MEETING**

9:00 a.m. July 9, 2026

Mr. Chris Diggs, Chair

Mr. Chris Berch, Vice-Chair

At The Offices Of

Chino Basin Watermaster

9641 San Bernardino Road

Rancho Cucamonga, CA 91730

(Call can be taken remotely via Zoom at this [link](#))

AGENDA

CALL TO ORDER

ROLL CALL

AGENDA - ADDITIONS/REORDER

I. CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and non-controversial and will be acted upon by one motion in the form listed below. There will be no separate discussion on these items prior to voting unless any members, staff, or the public requests specific items be discussed and/or removed from the Consent Calendar for separate action.

A. MINUTES

Approve as presented:

Minutes of the Appropriative Pool Committee Meeting held on June 11, 2026 *(Page 1)*

B. FINANCIAL REPORTS

Receive and file as presented:

Monthly Financial Report for the Period Ended May 31, 2026 *(Page 14)*

C. APPLICATION: WATER TRANSACTION – 3 AF FROM NICHOLSON FAMILY TRUST TO FONTANA WATER COMPANY

Provide advice and assistance to the Advisory Committee on the proposed transaction *(Page 30)*.

D. APPLICATION: WATER TRANSACTION – 58.5 AF FROM CITY OF CHINO TO CITY OF ONTARIO

Provide advice and assistance to the Advisory Committee on the proposed transaction *(Page 37)*.

E. APPLICATION: WATER TRANSACTION – 66.4 AF FROM WEST END CONSOLIDATED WATER COMPANY TO GOLDEN STATE WATER COMPANY

Provide advice and assistance to the Advisory Committee on the proposed transaction *(Page 44)*.

F. APPLICATION: WATER TRANSACTION – 620 AF FROM WEST END CONSOLIDATED WATER COMPANY TO CITY OF UPLAND

Provide advice and assistance to the Advisory Committee on the proposed transaction *(Page 51)*.

G. APPLICATION: WATER TRANSACTION – 620 AF FROM CITY OF UPLAND TO GOLDEN STATE WATER COMPANY

Provide advice and assistance to the Advisory Committee on the proposed transaction *(Page 58)*.

H. APPLICATION: WATER TRANSACTION – 4 AF FROM NCL CO, LLC TO SAN GABRIEL BAND OF MISSION INDIANS

Provide advice and assistance to the Advisory Committee on the proposed transaction (*Page 65*).

I. APPLICATION: WATER TRANSACTION – 2,658.11 AF FROM JURUPA COMMUNITY SERVICES DISTRICT TO FONTANA WATER COMPANY

Provide advice and assistance to the Advisory Committee on the proposed transaction (*Page 72*).

J. AGRICULTURAL POOL COMMITTEE LEGAL COUNSEL INVOICE FOR JUNE 2026 SERVICES

Approve Egoscue Law Group, Inc. Invoice #15269 dated July 1, 2026, in the amount of \$26,600.00 for services performed during June 2026.

II. BUSINESS ITEMS

A. 2025 SAFE YIELD REEVALUATION

Provide advice and assistance to Watermaster regarding the reset of the Safe Yield in accordance with the 2025 Safe Yield Reevaluation Final Report (*Page 79*).

III. REPORTS/UPDATES

A. WATERMASTER LEGAL COUNSEL

1. June 12, 2026 Court Hearing (Watermaster Motion for Approval of Corrected and Amended Assessment Packages; Request for Approval of Intervention of San Gabriel Band of Mission Indians)
2. August 14, 2026 (Watermaster Motion for Approval of Corrected and Amended Assessment Packages)
3. Inland Empire Utilities Agency, et al. v. LS-Fontana LLC (C.D. Cal Cases Nos.: 5:25-cv-00809, 5:25 cv01159)
4. Court of Appeal Case No. E088249 (City of Ontario appeal re: January 30, 2026 Attorney Fees Ruling)
5. Petition to Santa Ana Regional Water Quality Control Board to Require Stormwater Permits for Commercial, Industrial, and Institutional Facilities in re Chino Creek

B. ENGINEER

1. Scope/Schedule: Storage Management Plan and RMPU

C. GENERAL MANAGER

1. Other

IV. POOL MEMBER COMMENTS

V. OTHER BUSINESS

VI. CONFIDENTIAL SESSION – POSSIBLE ACTION

A Confidential Session may be held during the Pool Committee meeting for the purpose of discussion and possible action.

None

VII. FUTURE MEETINGS AT WATERMASTER

| | | | |
|----------|-----|------------|--|
| 07/09/26 | Thu | 9:00 a.m. | Appropriative Pool Committee |
| 07/09/26 | Thu | 11:00 a.m. | Non-Agricultural Pool Committee |
| 07/09/26 | Thu | 1:30 p.m. | Agricultural Pool Committee |
| 07/16/26 | Thu | 9:00 a.m. | Advisory Committee |
| 07/16/26 | Thu | 10:00 a.m. | Recharge Investigations and Projects Committee (RIPComm) |
| 07/23/26 | Thu | 9:30 a.m. | Watermaster Orientation (in person only) |
| 07/23/26 | Thu | 11:00 a.m. | Watermaster Board |

ADJOURNMENT

**CHINO BASIN WATERMASTER
NON-AGRICULTURAL POOL COMMITTEE MEETING**

11:00 a.m. July 9, 2026

Mr. Brian Geye, Chair

Mr. Bob Bowcock, Vice-Chair

At The Offices Of

Chino Basin Watermaster

9641 San Bernardino Road

Rancho Cucamonga, CA 91730

AGENDA

CALL TO ORDER

ROLL CALL

AGENDA – ADDITIONS/REORDER

I. BUSINESS ITEMS - ROUTINE

A. MINUTES

Receive and file as presented:

Minutes of the Non-Agricultural Pool Committee Meeting held on June 11, 2026 *(Page 5)*

B. FINANCIAL REPORTS

Monthly Financial Report for the Period Ended May 31, 2026 *(Page 14)*

C. APPLICATION: WATER TRANSACTION – 3 AF FROM NICHOLSON FAMILY TRUST TO FONTANA WATER COMPANY

Provide advice and assistance to the Advisory Committee on the proposed transaction *(Page 30)*.

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H. APPLICATION: WATER TRANSACTION – 4 AF FROM NCL CO, LLC TO SAN GABRIEL BAND OF MISSION INDIANS

Provide advice and assistance to the Advisory Committee on the proposed transaction *(Page 65)*.

I. APPLICATION: WATER TRANSACTION – 2658.11 AF FROM JURUPA COMMUNITY SERVICES DISTRICT TO FONTANA WATER COMPANY

Provide advice and assistance to the Advisory Committee on the proposed transaction (*Page 72*).

II. BUSINESS ITEMS

A. 2025 SAFE YIELD REEVALUATION

Provide advice and assistance to Watermaster regarding the reset of the Safe Yield in accordance with the 2025 Safe Yield Reevaluation Final Report (*Page 79*).

III. REPORTS/UPDATES

A. WATERMASTER LEGAL COUNSEL

1. June 12, 2026 Court Hearing (Watermaster Motion for Approval of Corrected and Amended Assessment Packages; Request for Approval of Intervention of San Gabriel Band of Mission Indians)
2. August 14, 2026 (Watermaster Motion for Approval of Corrected and Amended Assessment Packages)
3. Inland Empire Utilities Agency, et al. v. LS-Fontana LLC (C.D. Cal Cases Nos.: 5:25-cv-00809, 5:25 cv01159)
4. Court of Appeal Case No. E088249 (City of Ontario appeal re: January 30, 2026 Attorney Fees Ruling)
5. Petition to Santa Ana Regional Water Quality Control Board to Require Stormwater Permits for Commercial, Industrial, and Institutional Facilities in re Chino Creek

B. ENGINEER

1. Scope/Schedule: Storage Management Plan and RMPU

C. GENERAL MANAGER

1. Other

IV. POOL MEMBER COMMENTS

V. OTHER BUSINESS

VI. CONFIDENTIAL SESSION - POSSIBLE ACTION

A Confidential Session may be held during the Pool Committee meeting for the purpose of discussion and possible action.

None

VII. FUTURE MEETINGS AT WATERMASTER

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|----------|-----|------------|--|
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| 07/16/26 | Thu | 10:00 a.m. | Recharge Investigations and Projects Committee (RIPComm) |
| 07/23/26 | Thu | 9:30 a.m. | Watermaster Orientation (in person only) |
| 07/23/26 | Thu | 11:00 a.m. | Watermaster Board |

ADJOURNMENT

**CHINO BASIN WATERMASTER
AGRICULTURAL POOL COMMITTEE MEETING**

1:30 p.m. July 9, 2026

Mr. Bob Feenstra, Chair

Mr. Jeff Pierson, Vice-Chair

At The Offices Of

Chino Basin Watermaster

9641 San Bernardino Road

Rancho Cucamonga, CA 91730

AGENDA

CALL TO ORDER

ROLL CALL

AGENDA - ADDITIONS/REORDER

I. CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and non-controversial and will be acted upon by one motion in the form listed below. There will be no separate discussion on these items prior to voting unless any members, staff, or the public requests specific items be discussed and/or removed from the Consent Calendar for separate action.

A. MINUTES

Approve as presented:

Minutes of the Agricultural Pool Committee Meeting held on June 11, 2026 *(Page 8)*

B. FINANCIAL REPORTS

Receive and file as presented:

Monthly Financial Report for the Period Ended May 31, 2026 *(Page 14)*

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Provide advice and assistance to the Advisory Committee on the proposed transaction (*Page 72*).

II. BUSINESS ITEMS

A. 2025 SAFE YIELD REEVALUATION

Provide advice and assistance to Watermaster regarding the reset of the Safe Yield in accordance with the 2025 Safe Yield Reevaluation Final Report (*Page 79*).

B. OLD BUSINESS

III. REPORTS/UPDATES

A. WATERMASTER LEGAL COUNSEL

1. June 12, 2026 Court Hearing (Watermaster Motion for Approval of Corrected and Amended Assessment Packages; Request for Approval of Intervention of San Gabriel Band of Mission Indians)
2. August 14, 2026 (Watermaster Motion for Approval of Corrected and Amended Assessment Packages)
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5. Petition to Santa Ana Regional Water Quality Control Board to Require Stormwater Permits for Commercial, Industrial, and Institutional Facilities in re Chino Creek

B. ENGINEER

1. Scope/Schedule: Storage Management Plan and RMPU

C. GENERAL MANAGER

1. Other

IV. POOL MEMBER COMMENTS

VI. OTHER BUSINESS

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

A Confidential Session may be held during the Pool Committee meeting for the purpose of discussion and possible action.

1. Safe Yield Reevaluation
2. Storage Management Plan and RMPU

VIII. FUTURE MEETINGS AT WATERMASTER

| | | | |
|----------|-----|------------|--|
| 07/09/26 | Thu | 9:00 a.m. | Appropriative Pool Committee |
| 07/09/26 | Thu | 11:00 a.m. | Non-Agricultural Pool Committee |
| 07/09/26 | Thu | 1:30 p.m. | Agricultural Pool Committee |
| 07/16/26 | Thu | 9:00 a.m. | Advisory Committee |
| 07/16/26 | Thu | 10:00 a.m. | Recharge Investigations and Projects Committee (RIPComm) |
| 07/23/26 | Thu | 9:30 a.m. | Watermaster Orientation (in person only) |
| 07/23/26 | Thu | 11:00 a.m. | Watermaster Board |

ADJOURNMENT

DRAFT MINUTES
CHINO BASIN WATERMASTER
APPROPRIATIVE POOL COMMITTEE MEETING

June 11, 2026

The Appropriative Pool Committee meeting was held at the Watermaster offices located at 9641 San Bernardino Road, Rancho Cucamonga, CA, and via Zoom (conference call and web meeting) on June 11, 2026.

APPROPRIATIVE POOL COMMITTEE MEMBERS PRESENT AT WATERMASTER

| | |
|-------------------------|------------------------------------|
| Chris Diggs, Chair | City of Pomona |
| Chris Berch, Vice-Chair | Jurupa Community Services District |
| Amanda Coker | Cucamonga Valley Water District |
| Ron Craig | City of Chino Hills |
| Bryan Smith | City of Norco |
| Chad Nishida | City of Ontario |
| Cris Fealy | Fontana Water Company |
| Justin Castruita | Fontana Union Water Company |
| Stephanie Reimer | Monte Vista Irrigation Company |
| Stephanie Reimer | Monte Vista Water District |
| Cris Fealy | Nicholson Family Trust |
| Brian Lee | San Antonio Water Company |

APPROPRIATIVE POOL COMMITTEE MEMBERS PRESENT ON ZOOM

| | |
|---------------|----------------|
| Hye Jin Lee | City of Chino |
| Nicole deMoet | City of Upland |

APPROPRIATIVE POOL COMMITTEE LEGAL COUNSEL PRESENT ON ZOOM

| | |
|-------------|---------------------------------|
| John Schatz | John J. Schatz, Attorney at Law |
|-------------|---------------------------------|

WATERMASTER BOARD MEMBERS PRESENT

| | |
|-------------|------------|
| Bob Bowcock | CalMat Co. |
|-------------|------------|

WATERMASTER BOARD MEMBERS PRESENT ON ZOOM

| | |
|-----------------|--|
| Curtis Burton | City of Chino |
| Bill Velto | City of Upland |
| Marty Zvirbulis | Fontana Water Company |
| Jimmy Medrano | State of California |
| Bob Kuhn | Three Valleys Municipal Water District |
| Mike Gardner | Western Municipal Water District |

WATERMASTER STAFF PRESENT

| | |
|----------------------|---|
| Todd Corbin | General Manager |
| Edgar Tellez Foster | Water Resources Mgmt. & Planning Director |
| Anna Nelson | Director of Administration |
| Frank Yoo | Data Services and Judgment Reporting Mgr. |
| Daniela Uriarte | Senior Accountant |
| Ruby Favela Quintero | Executive Assistant |
| Kirk Richard Dolar | Administrative Analyst |
| Alonso Jurado | Water Resources Senior Associate |
| Jordan Garcia | Water Resources Associate |
| Noemi Medrano | Administrative Assistant |
| Alexandria Aviles | Field Operations Specialist |
| Cameron Rubel | Field Operations Specialist |

WATERMASTER CONSULTANTS PRESENT AT WATERMASTER

Brad Herrema
Andy Malone
Brownstein Hyatt Farber Schreck, LLP
West Yost

OTHERS PRESENT AT WATERMASTER

Nichole Horton
Elizabeth Willis
Eduardo Espinoza
Jiwon Seung
Frank Gomez
Jesse Pompa
City of Pomona
Chino Basin Water Conservation District
Cucamonga Valley Water District
Cucamonga Valley Water District
Fontana Water Company
Jurupa Community Services District

OTHERS PRESENT ON ZOOM

Tariq Awan
Jessica Singletary
Alexis Mascarinas
Scott Burton
Melissa Cansino
Ray Cordero
Richard Gonzales
Mark Gibboney
Derek Hoffman
Josh Swift
Aimee Zhao
Eddie Lin
John Russ
Manny Martinez
Alyssa Coronado
Elizabeth P. Ewens
David De Jesus
Ryan Shaw
Bill Wyat
Agricultural Pool – State of CA
City of Chino
City of Ontario
City of Ontario
City of Pomona
City of Upland
City of Upland
Cucamonga Valley Water District
Fennemore Law
Fontana Union Water Company
Inland Empire Utilities Agency
Inland Empire Utilities Agency
Inland Empire Utilities Agency
Monte Vista Water District
Santa Ana River Water Company
Stoel Rives LLP
Three Valleys Municipal Water District
Western Municipal Water District

CALL TO ORDER

Chair Diggs called the Appropriative Pool Committee meeting to order at 9:00 a.m.

ROLL CALL

(00:00:13) Ms. Nelson conducted the roll call and announced that a quorum was present.

AGENDA – ADDITIONS/REORDER

None

SAFETY MINUTE

(00:02:04) Mr. Corbin prefaced the item and asked Mr. Malone to report. Mr. Malone reported that AAA insurance offers up to a 10% discount to mature drivers who complete their mature driver course. He stated that learning to better position his mirrors made a big difference to overall visibility on the road.

I. CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and non-controversial and will be acted upon by one motion in the form listed below. There will be no separate discussion on these items prior to voting unless any members, staff, or the public requests specific items be discussed and/or removed from the Consent Calendar for separate action.

A. MINUTES

Approve as presented:

Minutes of the Appropriative Pool Committee Meeting held on May 14, 2026

B. FINANCIAL REPORTS

Receive and file as presented:

Monthly Financial Report for the Period Ended April 30, 2026

C. 2025 ANNUAL REPORT OF THE PRADO BASIN HABITAT SUSTAINABILITY PROGRAM

Provide advice and assistance on the draft 2025 Annual Report.

D. APPLICATION: LOCAL STORAGE AGREEMENT (ONAP)

Provide advice and assistance to the Advisory Committee on the proposed agreement.

E. AGRICULTURAL POOL COMMITTEE LEGAL COUNSEL INVOICE FOR MAY 2026 SERVICES

Approve Egoscue Law Group, Inc. Invoice #15237 dated June 1, 2026, in the amount of \$19,425.00 for services performed during May 2026.

(00:04:22)

Motion by Mr. Ron Craig, seconded by Mr. Cris Fealy; there being no dissent, the item passed unanimously by voice vote among those present.

Moved to approve the Consent Calendar Items as presented.

II. BUSINESS ITEMS

A. REVIEW FINAL 2025 SAFE YIELD REEVALUATION REPORT

Provide advice and assistance to Watermaster on the Final 2025 Safe Yield Reevaluation Report.

(00:04:41) Mr. Corbin prefaced the item and asked Mr. Malone to give a presentation. A discussion ensued.

B. ECONOMIC ANALYSIS OF PEACE II AGREEMENT TERMS - PHASE II (ORAL REPORT ONLY)

(00:21:16) Mr. Corbin gave a report. A discussion ensued.

III. REPORTS/UPDATES

A. WATERMASTER LEGAL COUNSEL

1. June 12, 2026 Court Hearing (Watermaster Motion for Approval of Corrected and Amended Assessment Packages; Request for Approval of Intervention of San Gabriel Band of Mission Indians)
2. Inland Empire Utilities Agency, et al. v. LS-Fontana LLC (C.D. Cal Cases Nos.: 5:25-cv-00809, 5:25 cv01159)
3. Court of Appeal Case No. E088249 (City of Ontario appeal re: January 30, 2026 Attorney Fees Ruling)
4. Petition to Santa Ana Regional Water Quality Control Board to Require Stormwater Permits for Commercial, Industrial, and Institutional Facilities in re Chino Creek

(00:24:02) Mr. Herrema gave a report and added fourth item to his report regarding the CA Coastkeeper Alliance and IE Waterkeepers petition to require stormwater permits for commercial polluters.

B. ENGINEER

1. 2025 Annual Report of the Prado Basin Habitat Sustainability Program

(00:28:08) Mr. Malone gave a report. A discussion ensued.

C. GENERAL MANAGER

- 1. West Yost Associates, Inc. Fiscal Year 2026/27 Rate Schedule
- 2. Notice of Budget Transfer
- 3. July Meeting Schedule
- 4. Other

(00:30:51) For Item 1, Mr. Corbin reported that Watermaster had received a new rate schedule from West Yost for the upcoming fiscal year, consistent with the terms of the existing contract. For Item 2, he reported that a \$25,000 transfer had been made under a Task Order, which falls within the General Manager’s authorized spending limit and requires notification to the parties. He noted that the original amount was \$27,000 to complete the Peer Review of the Safe Yield. For Item 3, Mr. Corbin recommended that the Pool consider going dark in July, as was customary in previous years, unless otherwise directed by the Pool. A discussion ensued.

IV. INFORMATION

A. RECHARGE INVESTIGATION AND PROJECTS COMMITTEE (PROJECT 23a STATUS)

This was an informational item only, and no oral report was provided.

B. CHINO BASIN DAY WITH THE REGIONAL BOARD

(00:33:00) Mr. Corbin gave a report. A discussion ensued.

V. POOL MEMBER COMMENTS

None

VI. OTHER BUSINESS

None

VII. CONFIDENTIAL SESSION – POSSIBLE ACTION

A Confidential Session may be held during the Pool Committee meeting for the purpose of discussion and possible action.

The Pool convened into Confidential Session at 9:33 a.m. to discuss the following:

- 1. Review Application of 85/15 Rule
- 2. AP Agreements

Confidential Session concluded at 11:24 a.m. with the following reportable action:

Chair Diggs indicated that the Appropriative Pool and the Advisory Committees had already reviewed and approved the Assessment Package. Accordingly, the Committee had no further advice or recommendations to provide related to the 85/15 Rule at this time.

ADJOURNMENT

Chair Diggs adjourned the Appropriative Pool Committee meeting at 11:25 a.m.

Secretary: _____

Approved: _____

DRAFT MINUTES
CHINO BASIN WATERMASTER
NON-AGRICULTURAL POOL COMMITTEE MEETING

June 11, 2026

The Non-Agricultural Pool Committee meeting was held at the Watermaster offices located at 9641 San Bernardino Road, Rancho Cucamonga, CA, and via Zoom (conference call and web meeting) on June 11, 2026.

NON-AGRICULTURAL POOL COMMITTEE MEMBERS PRESENT AT WATERMASTER

Bob Bowcock, Vice-Chair
CalMat Co.

NON-AGRICULTURAL POOL COMMITTEE MEMBERS PRESENT ON ZOOM

Brian Geye, Chair
Erick Jimenez
Alexis Mascarinas
California Speedway Corporation
California Steel Industries
City of Ontario

WATERMASTER STAFF PRESENT AT WATERMASTER

Todd Corbin
Edgar Tellez Foster
Anna Nelson
Frank Yoo
Daniela Uriarte
Ruby Favela Quintero
Kirk Richard Dolar
Alonso Jurado
Jordan Garcia
Erik Vides
Noemi Medrano
Alexandria Aviles
Cameron Rubel
General Manager
Water Resources Mgmt. & Planning Director
Director of Administration
Data Services and Judgment Reporting Mgr.
Senior Accountant
Executive Assistant
Administrative Analyst
Water Resources Sr. Associate
Water Resources Associate
Senior Field Operations Specialist
Administrative Assistant
Field Operations Specialist
Field Operations Specialist

WATERMASTER BOARD MEMBERS PRESENT ON ZOOM

Mike Gardner
Western Municipal Water District

WATERMASTER CONSULTANTS PRESENT AT WATERMASTER

Brad Herrema
Andy Malone
Brownstein Hyatt Farber Schreck, LLP
West Yost

CALL TO ORDER

Chair Geye called the Non-Agricultural Pool committee meeting to order at 11:00 a.m.

ROLL CALL

(00:00:13) Ms. Nelson conducted the roll call.

AGENDA – ADDITIONS/REORDER

None

SAFETY MINUTE

(00:01:31) Mr. Corbin prefaced the item and asked Mr. Malone to report. Mr. Malone reported that AAA insurance offers a discount to drivers who complete a mature driver course. He stated that he learned a lot from the course, including mirror positioning to stay safer on the road.

I. BUSINESS ITEMS - ROUTINE

A. MINUTES

Receive and file as presented:

Minutes of the Non-Agricultural Pool Committee Meeting held on May 14, 2026

(00:03:24)

Motion by Ms. Alexis Mascarinas, seconded by Mr. Erick Jimenez. The Chair called for dissent, and, none being noted, the motion was deemed passed by unanimous vote of those present.

Moved to receive and file Business Item I.A. as presented.

B. FINANCIAL REPORTS

Receive and file as presented:

Monthly Financial Report for the Period Ended April 30, 2026

(00:03:46)

Motion by Ms. Alexis Mascarinas, seconded by Mr. Erick Jimenez. The Chair called for dissent, and, none being noted, the motion was deemed passed by unanimous vote of those present.

Moved to receive and file Business Item I.B. without approval as presented.

C. 2025 ANNUAL REPORT OF THE PRADO BASIN HABITAT SUSTAINABILITY PROGRAM

Provide advice and assistance on the draft 2025 Annual Report.

(00:04:19)

Motion by Ms. Alexis Mascarinas, seconded by Mr. Erick Jimenez. The Chair called for dissent, and, none being noted, the motion was deemed passed by unanimous vote of those present.

Moved to support Business Item I.C. as presented and direct the Pool representatives to support at the Advisory Committee and Watermaster Board meetings subject to changes which they deem appropriate.

D. APPLICATION: LOCAL STORAGE AGREEMENT (ONAP)

Provide advice and assistance to the Advisory Committee on the proposed agreement.

(00:04:51)

Motion by Ms. Alexis Mascarinas, seconded by Mr. Erick Jimenez. The Chair called for dissent, and, none being noted, the motion was deemed passed by unanimous vote of those present.

Moved to support Business Item I.D. as presented and direct the Pool representatives to support at the Advisory Committee and Watermaster Board meetings subject to changes which they deem appropriate.

II. BUSINESS ITEMS

A. REVIEW FINAL 2025 SAFE YIELD REEVALUATION REPORT

Provide advice and assistance to Watermaster on the Final 2025 Safe Yield Reevaluation Report.

(00:05:13) Mr. Corbin prefaced the item and asked Mr. Malone to give a presentation. A discussion ensued.

III. REPORTS/UPDATES

A. WATERMASTER LEGAL COUNSEL

1. June 12, 2026 Court Hearing (Watermaster Motion for Approval of Corrected and Amended Assessment Packages; Request for Approval of Intervention of San Gabriel Band of Mission Indians)
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3. Court of Appeal Case No. E088249 (City of Ontario appeal re: January 30, 2026 Attorney Fees Ruling)
4. Petition to Santa Ana Regional Water Quality Control Board to Require Stormwater Permits for Commercial, Industrial, and Institutional Facilities in re Chino Creek

(00:15:00) Mr. Herrema gave a report and added a fourth item to his report regarding the CA Coastkeeper Alliance and the IE Waterkeeper petition. A discussion ensued.

B. ENGINEER

- 1. 2025 Annual Report of the Prado Basin Habitat Sustainability Program

(00:18:48) Mr. Malone gave a report.

C. GENERAL MANAGER

- 1. West Yost Associates, Inc. Fiscal Year 2026/27 Rate Schedule
- 2. Notice of Budget Transfer
- 3. July Meeting Schedule
- 4. Other

(00:19:36) For Item 1, Mr. Corbin reported that Watermaster had received a new rate schedule from West Yost for the upcoming fiscal year, consistent with the terms of the existing contract. For Item 2, he reported that a \$25,000 transfer had been made under a Task Order, which falls within the General Manager’s authorized spending limit and requires notification to the parties. He noted that the original amount was \$27,000 to complete the Peer Review of the Safe Yield. For Item 3, Mr. Corbin recommended that the Pool consider going dark in July, as has been customary in previous years. Chair Geye stated that the Pool was amenable to being dark in July.

IV. INFORMATION

A. RECHARGE INVESTIGATION AND PROJECTS COMMITTEE (PROJECT 23A STATUS)

This was an informational item only, and no oral report was provided.

B. CHINO BASIN DAY WITH THE REGIONAL BOARD

This was an informational item only, and no oral report was provided.

C. ECONOMIC ANALYSIS OF PEACE II AGREEMENT TERMS - PHASE II (ORAL REPORT)

(00:22:37) Mr. Corbin gave a report.

V. POOL MEMBER COMMENTS

None

VI. OTHER BUSINESS

None

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

A Confidential Session may be held during the Pool Committee meeting for the purpose of discussion and possible action.

None

ADJOURNMENT

Chair Geye adjourned the Non-Agricultural Pool Committee meeting at 11:23 a.m.

Secretary: _____

Approved: _____

DRAFT MINUTES
CHINO BASIN WATERMASTER
AGRICULTURAL POOL COMMITTEE MEETING

June 11, 2026

The Agricultural Pool Committee meeting was held at the Watermaster offices located at 9641 San Bernardino Road, Rancho Cucamonga, CA, and via Zoom (conference call and web meeting) on June 11, 2026.

AGRICULTURAL POOL COMMITTEE MEMBERS PRESENT AT WATERMASTER

| | |
|--------------------------|----------------------------|
| Bob Feenstra, Chair | Dairy |
| Jeff Pierson, Vice-Chair | Crops |
| Paul Hofer | Crops |
| Christen Miller | County of San Bernardino |
| Jimmy Medrano | State of California – CDCR |
| Tariq Awan | State of California – CDCR |

AGRICULTURAL POOL COMMITTEE MEMBERS PRESENT ON ZOOM

| | |
|---------------------|----------------------------|
| Ruben Llamas | Crops |
| John Huitsing | Dairy |
| Nathan deBoom | Dairy |
| Henry DeHaan | Dairy |
| Noah Golden-Krasner | State of California – DOJ |
| Michael Maeda | State of California – CDCR |

AGRICULTURAL POOL LEGAL COUNSEL PRESENT AT WATERMASTER

| | |
|---------------|-------------------------|
| Tracy Egoscue | Egoscue Law Group, Inc. |
|---------------|-------------------------|

WATERMASTER BOARD MEMBERS PRESENT ON ZOOM

| | |
|--------------|----------------------------------|
| Mike Gardner | Western Municipal Water District |
|--------------|----------------------------------|

WATERMASTER STAFF PRESENT

| | |
|----------------------|---|
| Todd Corbin | General Manager |
| Edgar Tellez Foster | Water Resources Mgmt. & Planning Director |
| Anna Nelson | Director of Administration |
| Frank Yoo | Data Services and Judgment Reporting Mgr. |
| Daniela Uriarte | Senior Accountant |
| Ruby Favela Quintero | Executive Assistant |
| Alonso Jurado | Water Resources Senior Associate |
| Kirk Richard Dolar | Administrative Analyst |
| Jordan Garcia | Water Resources Associate |
| Noemi Medrano | Administrative Assistant |
| Alexandria Aviles | Field Operations Specialist |
| Cameron Rubel | Field Operations Specialist |

WATERMASTER CONSULTANTS PRESENT AT WATERMASTER

| | |
|--------------|--------------------------------------|
| Brad Herrema | Brownstein Hyatt Farber Schreck, LLP |
| Andy Malone | West Yost |

OTHERS PRESENT AT WATERMASTER

| | |
|--------------|---------|
| Gino Filippi | Crops |
| Richard Rees | WSP USA |

OTHERS PRESENT ON ZOOM

| | |
|-----------|--------------------------------|
| Eddie Lin | Inland Empire Utilities Agency |
|-----------|--------------------------------|

CALL TO ORDER

Chair Feenstra provided opening remarks and called the Agricultural Pool committee meeting to order at 1:33 p.m.

ROLL CALL

(00:00:25) Ms. Ruby Favela Quintero conducted the roll call and announced that a quorum was present.

AGENDA – ADDITIONS/REORDER

None

(1:48 p.m.) Mr. Hofer joined the meeting.

(00:01:34) Chair Feenstra expressed his condolences to Mr. Corbin on the recent passing of his father-in-law. He then congratulated Ms. Carol Boyd on her retirement and invited Vice-Chair Pierson to read and present Agricultural Pool Resolution 2026-01.

SAFETY MINUTE

(00:11:51) Mr. Corbin prefaced the item and asked Mr. Malone to report. Mr. Malone reported that AAA insurance offers a discount to drivers who complete a mature driver course. He stated that he learned a lot from the course, including mirror positioning to stay safer on the road.

I. CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and non-controversial and will be acted upon by one motion in the form listed below. There will be no separate discussion on these items prior to voting unless any members, staff, or the public requests specific items be discussed and/or removed from the Consent Calendar for separate action.

A. MINUTES

Approve as presented:
Minutes of the Agricultural Pool Committee Meeting held on May 14, 2026

B. FINANCIAL REPORTS

Receive and file as presented:
Monthly Financial Report for the Period Ended April 30, 2026

C. 2025 ANNUAL REPORT OF THE PRADO BASIN HABITAT SUSTAINABILITY PROGRAM

Provide advice and assistance on the draft 2025 Annual Report.

D. APPLICATION: LOCAL STORAGE AGREEMENT (ONAP)

Provide advice and assistance to the Advisory Committee on the proposed agreement.

(00:16:23)

Motion by Vice-Chair Jeff Pierson, seconded by Mr. Jimmy Medrano, and passed by unanimous roll call vote as attached to these minutes.

Moved to approve the Consent Calendar as presented.

II. BUSINESS ITEMS

A. REVIEW FINAL 2025 SAFE YIELD REEVALUATION REPORT

Provide advice and assistance to Watermaster on the Final 2025 Safe Yield Reevaluation Report.

(00:18:14) Mr. Corbin prefaced the item and asked Mr. Malone to give a presentation. A discussion ensued.

B. OLD BUSINESS

None

III. REPORTS/UPDATES

A. WATERMASTER LEGAL COUNSEL

1. June 12, 2026 Court Hearing (Watermaster Motion for Approval of Corrected and Amended Assessment Packages; Request for Approval of Intervention of San Gabriel Band of Mission Indians)
2. Inland Empire Utilities Agency, et al. v. LS-Fontana LLC (C.D. Cal Cases Nos.: 5:25-cv-00809, 5:25 cv01159)
3. Court of Appeal Case No. E088249 (City of Ontario appeal re: January 30, 2026 Attorney Fees Ruling)
4. Petition to Santa Ana Regional Water Quality Control Board to Require Stormwater Permits for Commercial, Industrial, and Institutional Facilities in re Chino Creek

(00:39:31) Mr. Herrema gave a report and added a fourth item to his report regarding the CA Coastkeeper Alliance and the IE Waterkeepers petition. A discussion ensued.

B. ENGINEER

1. 2025 Annual Report of the Prado Basin Habitat Sustainability Program

(00:57:18) Mr. Malone gave a report. A discussion ensued.

C. GENERAL MANAGER

1. West Yost Associates, Inc. Fiscal Year 2026/27 Rate Schedule
2. Notice of Budget Transfer
3. July Meeting Schedule
4. Other

(00:58:19) For Item 1, Mr. Corbin reported that Watermaster had received a new rate schedule from West Yost for the upcoming fiscal year, consistent with the terms of the existing contract. For Item 2, he reported that a \$25,000 transfer had been made under a Task Order, which falls within the General Manager's authorized spending limit and requires notification to the parties. He noted that the original amount was \$27,000 to complete the Peer Review of the Safe Yield. For Item 3, Mr. Corbin recommended that the Pool consider going dark in July, as has been customary in previous years. A discussion ensued.

IV. INFORMATION

A. RECHARGE INVESTIGATION AND PROJECTS COMMITTEE (PROJECT 23A STATUS)

(01:02:29) Mr. Corbin reported that the project has been completed.

B. CHINO BASIN DAY WITH THE REGIONAL BOARD

(01:02:47) Mr. Corbin reported that Watermaster staff, Chino Basin Desalter Authority staff, and West Yost met with the Regional Board in May. He stated that the agenda was shared so all parties would be aware of the topics discussed.

C. ECONOMIC ANALYSIS OF PEACE II AGREEMENT TERMS - PHASE II (ORAL REPORT)

(01:03:14) Mr. Corbin gave a report. A discussion ensued.

V. POOL MEMBER COMMENTS

(01:06:52) Chair Feenstra asked the Pool who would replace Ms. Carol Boyd following her retirement. Mr. Medrano stated that he believed Mr. Noah Golden-Krasner may since he had been attending. A discussion ensued.

VI. OTHER BUSINESS

None

VII. CONFIDENTIAL SESSION - POSSIBLE ACTION

A Confidential Session may be held during the Pool Committee meeting for the purpose of discussion and possible action.

The Pool convened into Confidential Session at 2:47 p.m. to discuss the following:

1. TMDL Special Projects
2. Safe Yield Reevaluation

Confidential Session concluded at 3:24 p.m. with no reportable action.

ADJOURNMENT

The Pool did not wish to reconvene into open session, and the Agricultural Pool Committee meeting was deemed adjourned at 3:24 p.m. as indicated in the email provided by Pool counsel (Attachment 2).

Secretary: _____

Approved: _____

Attachments:

1. 20260611 Roll Call Vote Outcome for Consent Calendar I.A.-I.D.
2. 20260611 Adjournment Email as Provided by Pool Counsel.

ATTACHMENT 1

| |
|--|
| 20260611 Roll Call Vote Outcome |
|--|

| Member | Alternate | Consent Calendar I.A. - I.D. |
|---------------------------|-----------------|------------------------------|
| Pierson, Jeff, Vice-Chair | | Yes |
| Llamas, Ruben* | | Yes |
| Hofer, Paul | | Yes |
| deBoom, Nathan* | | Yes |
| DeHaan, Henry* | | Yes |
| Huitsing, John* | | Yes |
| Awan, Tariq | | Yes |
| Cadigal, Imelda** | Maeda, Michael | Yes |
| Medrano, Jimmy | | Yes |
| Miller, Christen | | Yes |
| Feenstra, Bob - Chair | | Yes |
| | OUTCOME: | Passed Unanimously |

*Participated via Zoom

**Absent

Ruby Favela Quintero

From: Tracy Egoscue <tracy@egoscuelaw.com>
Sent: Thursday, June 11, 2026 3:26 PM
To: Ruby Favela Quintero; Todd Corbin
Cc: Bob Feenstra; Jeff Pierson
Subject: Ag Pool Closed Session

Follow Up Flag: Follow up
Due By: Tuesday, June 16, 2026 4:00 PM
Flag Status: Flagged

The Ag Pool Closed Session ended at 3:24pm with no reportable action.

No need to reconvene in open session.

Thank you.

Tracy J. Egoscue (she/her)
Egoscue Law Group, Inc.
562.988.5978 office
562.981.4866 cell
tracy@egoscuelaw.com
www.egoscuelaw.com



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CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, CA 91730
909.484.3888 www.cbwm.org

STAFF REPORT

DATE: July 2026
TO: Watermaster Committees & Board
SUBJECT: Monthly Financial Reports (For the Reporting Period Ended May 31, 2026)
(Consent Calendar Item I.B.)

Issue: Record of Monthly Financial Reports for the reporting period ended May 31, 2026 [Normal Course of Business]

Recommendation: Receive and file Monthly Financial Reports for the reporting period ended May 31, 2026 as presented.

Financial Impact: Unless otherwise noted, all expenditures were included in the Fiscal Year 2025/26 budget as approved by the Advisory Committee and adopted by the Watermaster Board in May 2025, and subsequently amended in July 2025, and in January 2026.

ACTIONS:

Appropriative Pool – July 9, 2026 [Recommended]: Receive and file.
Non-Agricultural Pool – July 9, 2026 [Recommended]: Receive and file.
Agricultural Pool – July 9, 2026 [Recommended]: Receive and file.
Advisory Committee – July 16, 2026 [Recommended]: Receive and file.
Watermaster Board – July 23, 2026 [Recommended]: Receive and file.

BACKGROUND

A monthly financial reporting packet is provided to keep all members apprised of Watermaster revenues, expenditures, and other financial activities. Monthly reports include the following:

1. Cash Disbursements – Summarized report of all payments made during the reporting month.
2. Credit Card Expense Detail – Detail report of all credit card activity during the reporting month.
3. Combining Schedule of Revenues, Expenses & Changes in Net Assets – Detail report of all revenue and expense activity for the fiscal year to date (YTD), summarized by pool category.
4. Treasurer’s Report – Summary of Watermaster investment holdings and anticipated earnings as of month end.
5. Budget to Actual Report – Detail report of actual revenue and expense activity, shown for reporting month and YTD, comparatively to the amended budget and carryover budget.
6. Monthly Variance Report & Supplemental Schedules – Supporting schedule providing explanation for major budget variances, additional tables detailing pool fund balances, salaries expense, legal expense, engineering expense, and carryover budget.

DISCUSSION

Detailed explanations of major variances and other additional information can be found on the “Monthly Variance Report & Supplemental Schedules.”

Watermaster staff is available to provide additional explanations or respond to any questions on these reports during the monthly meetings as requested.

ATTACHMENT

1. Monthly Financial Reports (Period Ended May 31, 2026)



**Chino Basin Watermaster
Cash Disbursements
May 2026**

| Date | Number | Vendor Name | Description | Amount |
|---------------------------|-------------|---|--|---------------------|
| 05/01/2026 | ACH 5.1.26 | CALPERS | Medical Insurance Premiums - May 2026 | \$ (17,430.96) |
| 05/06/2026 | 26049 | BAY ALARM COMPANY | Burglar and Fire Alarm Systems - June 2026 | (256.69) |
| 05/06/2026 | 26050 | BROWNSTEIN HYATT FARBER SCHRECK | Legal services - March 2026 | (197,582.14) |
| 05/06/2026 | 26051 | BURRTEC WASTE INDUSTRIES, INC. | Utilities: Waste | (168.79) |
| 05/06/2026 | 26052 | DE HAAN, HENRY | | (375.00) |
| 05/06/2026 | 26053 | EIDE BAILLY LLP | Accounting services - April 2026 | (703.40) |
| 05/06/2026 | 26054 | FILIPPI, GINO | | (375.00) |
| 05/06/2026 | 26055 | GEYE, BRIAN | | (750.00) |
| 05/06/2026 | 26056 | GREAT AMERICA LEASING CORP. | Copy machine lease - April 2026 | (1,044.10) |
| 05/06/2026 | 26057 | PETTY CASH | Petty cash replenishment | (457.41) |
| 05/06/2026 | 26058 | VANGUARD CLEANING SYSTEMS | Cleaning service and April electrostatic spraying - May 2026 | (1,220.00) |
| 05/06/2026 | 26059 | VELTO, BILL | | (625.00) |
| 05/06/2026 | ACH 5.6.26 | STATE COMPENSATION INSURANCE FUND | FY 26 worker's compensation insurance - April 2026 | (2,265.50) |
| 05/13/2026 | 26060 | ABC LOCKSMITHS* | Air Access annual cloud subscription and lock installations | (1,595.15) |
| 05/13/2026 | 26061 | ACWA JOINT POWERS INSURANCE AUTHORITY | Life insurance - June 2026 | (282.48) |
| 05/13/2026 | 26062 | CALIFORNIA BANK & TRUST | Account ending 6198 - See detail attached | (7,736.02) |
| 05/13/2026 | 26063 | CORELOGIC INFORMATION SOLUTIONS | Geographic package services - April 2026 | (125.00) |
| 05/13/2026 | 26064 | CUCAMONGA VALLEY WATER DISTRICT | Building lease - June 2026 | (12,319.51) |
| 05/13/2026 | 26065 | EGOSCUA LAW GROUP, INC. | OAP legal services - April 2026 | (7,175.00) |
| 05/13/2026 | 26066 | FEENSTRA, BOB | | (875.00) |
| 05/13/2026 | 26067 | FOSTER & FOSTER, INC. | GASB 75 Full Valuation - 1st Installment | (1,710.00) |
| 05/13/2026 | 26068 | FRONTIER COMMUNICATIONS | Office alarm lines, teams phones, and DIA - May 2026 | (1,189.05) |
| 05/13/2026 | 26069 | PIERSON, JEFFREY | | (2,500.00) |
| 05/13/2026 | 26070 | UNION 76 | Fuel purchases - April 2026 | (298.64) |
| 05/13/2026 | 26071 | VC3, INC. | Database migration, Dell post warranty support, and network switch | (4,473.14) |
| 05/20/2026 | 26072 | CLARK PEST CONTROL | Bi-monthly pest control service | (104.00) |
| 05/20/2026 | 26073 | CUBICLE AND OFFICE, LLC. | Cubicle reconfiguration and re-installation | (1,751.32) |
| 05/20/2026 | 26074 | LEGAL SHIELD | Employee paid legal insurance | (103.60) |
| 05/20/2026 | 26075 | QUALITY TINT WORKS, INC. | Office window tint | (299.00) |
| 05/20/2026 | 26076 | RUBEN LLAMAS | | (125.00) |
| 05/20/2026 | 26077 | SOCALGAS | Utilities: Gas | (64.19) |
| 05/20/2026 | 26078 | SOUTHERN CA EDISON | Utilities: Electric - Main building | (1,278.54) |
| 05/20/2026 | 26079 | UNITED HEALTHCARE | Dental insurance coverage - June 2026 | (244.60) |
| 05/20/2026 | 26080 | VC3, INC. | IT services - April and May 2026 | (7,592.27) |
| 05/20/2026 | 26081 | WAXIE SANITARY SUPPLY | Bathroom supplies | (229.44) |
| 05/20/2026 | 26082 | WEST YOST | Engineering services - April 2026 | (329,101.01) |
| 05/27/2026 | 26083 | CUCAMONGA VALLEY WATER DISTRICT - UTILITY | Utilities: Water | (430.58) |
| 05/27/2026 | 26084 | ROI SAFETY SERVICES, LLC | Office safety training - Spring 2026 | (1,500.00) |
| 05/27/2026 | 26085 | STANDARD INSURANCE CO. | Disability coverage - June 2026 | (847.74) |
| 05/27/2026 | 26086 | STATE COMPENSATION INSURANCE FUND | FY 26 worker's compensation insurance - May 2026 | (2,265.50) |
| 05/27/2026 | 26087 | VISION SERVICE PLAN | Vision insurance premiums - June 2026 | (110.18) |
| 05/29/2026 | ACH 5.29.26 | PUBLIC EMPLOYEES' RETIREMENT SYSTEM | Annual Unfunded Accrued Liability-Plan 3299 - May 2026 | (14,363.08) |
| 05/29/2026 | ACH 5.29.26 | PUBLIC EMPLOYEES' RETIREMENT SYSTEM | Annual Unfunded Accrued Liability-Plan 27239 - May 2026 | (379.08) |
| Total for Month \$ | | | | (624,322.11) |



Chino Basin Watermaster Credit Card Expense Detail May 2026

| Date | Number | Description | Expense Account | Amount |
|------------------------|--------|---|---------------------------------|----------------------|
| 05/13/2026 | 26062 | CALIFORNIA BANK & TRUST | | |
| | | Southwest Airlines - ACWA Conference - Flight - E. Tellez-Foster | 6173 Airfare/Mileage | (211.40) |
| | | Amazon - Small desk calendar, wireless mouse | 6031.7 General Office Supplies | (43.09) |
| | | Panera Bread - Ops meeting - E. Tellez-Foster, F. Yoo, A. Jurado, J. Garcia, E. Vides | 6141.1 Meeting Supplies | (59.58) |
| | | Amazon - Amazon Web Services - March 2026 | 6052.5 IT Data Backup/Storage | (538.66) |
| | | RC Mongolian BBQ - Lunch meeting - E. Tellez-Foster, A. Jurado, IEUA | 6141.1 Meeting Supplies | (136.59) |
| | | Microsoft Software - Mapping and visualization software subscription | 6054 Computer Software | (15.00) |
| | | REV Subscription - Speech to text transcription services | 6112 Subscriptions/Publications | (29.99) |
| | | Costco - Office supplies | 6031.7 General Office Supplies | (130.47) |
| | | Costco - Meeting snacks and drinks | 6312 Board Meeting Expenses | (119.30) |
| | | Vallarta - Dessert for March staff meeting | 6141.1 Meeting Supplies | (40.98) |
| | | Amazon - High performance tablets for Ops team | 6055 Computer Hardware | (2,983.18) |
| | | Coco's Bakery and Restaurant - Breakfast meeting - T. Corbin, C. Diggs | 6141.1 Meeting Supplies | (36.74) |
| | | IAAP - Professional Annual Renewal 2026 - R. Favela-Quintero | 6111 Membership Dues | (200.00) |
| | | Land's End - Staff uniforms - A. Nelson, D. Uriarte, N. Medrano | 6154 Uniforms | (239.38) |
| | | Albertsons - March 2026 WM Academy - Meeting supplies | 6141.1 Meeting Supplies | (70.85) |
| | | Costco - Office supplies | 6031.7 General Office Supplies | (62.02) |
| | | Costco - Meeting snacks and drinks | 6312 Board Meeting Expenses | (201.48) |
| | | NY Bagel - March 2026 WM Academy - Meeting supplies | 6141.1 Meeting Supplies | (44.78) |
| | | FedEx - Expedited credit card delivery fee | 6042 Postage - General | (25.00) |
| | | Fellowes Inc - Filter replacements for office air purifiers | 6031.7 General Office Supplies | (538.75) |
| | | BambooHR - HR and payroll system - April 2026 | 6061.2 HRIS System | (298.99) |
| | | Amazon - Janitorial supplies | 6031.7 General Office Supplies | (16.37) |
| | | Skillpath - ELearning annual subscription - K. Dolar | 6193 Employee Training | (349.00) |
| | | Sam's Club - Dessert for April staff meeting | 6141.1 Meeting Supplies | (16.48) |
| | | Amazon - Magnetic hooks | 6031.7 General Office Supplies | (25.58) |
| | | 1-800 Flowers - Flower arrangement for J. Scott-Coe | 6031.7 General Office Supplies | (118.79) |
| | | BlueHost - Monthly software renewal - Standard VPN server with cPanel | 6056 Website Services | (94.99) |
| | | Amazon - Miscellaneous office supplies | 6141.1 Meeting Supplies | (163.54) |
| | | Residence Inn - PSHRA Conference -Pre-charge refund | 6191 Conferences - General | 264.98 |
| | | Residence Inn - PSHRA Conference - Lodging - A. Nelson | 6191 Conferences - General | (279.98) |
| | | Primo Brands - Office water delivery - 03/17/26 - 04/16/26 | 6031.7 General Office Supplies | (184.50) |
| | | Land's End - Staff uniforms - A. Jurado, E. Vides, J. Garcia | 6154 Uniforms | (209.73) |
| | | Office Depot - Format roll | 6031.7 General Office Supplies | (170.77) |
| | | Office Depot - Ink cartridges | 6031.7 General Office Supplies | (265.04) |
| | | FedEx - April 2026 Board meeting package - J. Pierson, S. Elie | 6042 Postage - General | (30.50) |
| | | FedEx - Overnight delivery OAP legal services check | 6042 Postage - General | (49.50) |
| Total for Month | | | | \$ (7,736.02) |



Chino Basin Watermaster

Combining Schedule of Revenues, Expenses & Changes in Net Assets For the Period of July 1, 2025 through May 31, 2026 (Unaudited)

| | JUDGMENT ADMIN. | OPTIMUM BASIN MGMT. | TOTAL JUDGMENT ADMIN & OBMP | POOL ADMINISTRATION & SPECIAL PROJECTS | | | GROUND WATER REPLENISH. | GRAND TOTALS | ADOPTED BUDGET 2025-2026 WITH CARRYOVER |
|---|---------------------|---------------------------|--------------------------------------|--|-------------------|-------------------|-------------------------------|-----------------------|---|
| | | | | AP POOL | OAP POOL | ONAP POOL | | | |
| Administrative Revenues: | | | | | | | | | |
| Administrative Assessments | \$ 6,578,699 | \$ - | \$ 6,578,699 | \$ 112,641 | \$ - | \$ 31,000 | \$ - | \$ 6,722,340 | \$ 11,453,849 |
| Interest Revenue | - | 273,366 | 273,366 | 15,334 | 46,264 | 2,848 | 1,608 | 339,421 | 368,030 |
| Groundwater Replenishment | - | - | - | - | - | - | 105,187 | 105,187 | - |
| Mutual Agency Project Revenue | 195,850 | - | 195,850 | - | - | - | - | 195,850 | 195,850 |
| Miscellaneous Income | - | - | - | - | - | - | - | - | - |
| Total Administrative Revenues | 6,774,548 | 273,366 | 7,047,915 | 127,975 | 46,264 | 33,848 | 106,795 | 7,362,797 | 12,017,729 |
| Administrative & Project Expenditures: | | | | | | | | | |
| Watermaster Administration | 2,702,563 | - | 2,702,563 | - | - | - | - | 2,702,563 | 2,789,042 |
| Watermaster Board-Advisory Committee | 388,936 | - | 388,936 | - | - | - | - | 388,936 | 442,947 |
| Optimum Basin Mgmt Administration | - | 937,215 | 937,215 | - | - | - | - | 937,215 | 1,236,522 |
| OBMP Project Costs | - | 3,884,951 | 3,884,951 | - | - | - | - | 3,884,951 | 4,699,276 |
| Pool Legal Services | - | - | - | 26,138 | 187,313 | 935 | - | 214,386 | - |
| Pool Meeting Compensation | - | - | - | - | 40,000 | 6,375 | - | 46,375 | - |
| Pool Special Projects | - | - | - | - | - | - | - | - | - |
| Pool Administration | - | - | - | - | - | - | - | - | 411,149 |
| Debt Service | - | 565,507 | 565,507 | - | - | - | - | 565,507 | 2,438,793 |
| Agricultural Expense Transfer ¹ | - | - | - | 227,313 | (227,313) | - | - | - | - |
| Replenishment Water Assessments | - | - | - | - | - | - | 62,834 | 62,834 | - |
| Total Administrative Expenses | 3,091,499 | 5,387,673 | 8,479,172 | 253,451 | - | 7,310 | 62,834 | 8,802,767 | 12,017,729 |
| Net Ordinary Income | 3,683,050 | (5,114,307) | (1,431,257) | (125,475) | 46,264 | 26,538 | 43,961 | (1,439,970) | - |
| Other Income/(Expense) | | | | | | | | | |
| Refund-Recharge Debt Service | - | - | - | - | - | - | - | - | - |
| Carryover Budget | - | - | - | - | - | - | - | - | 553,870 |
| Net Other Income/(Expense) | - | - | - | - | - | - | - | - | 553,870 |
| Net Transfers To/(From) Reserves | \$ 3,683,050 | \$ (5,114,307) | \$ (1,431,257) | \$ (125,475) | \$ 46,264 | \$ 26,538 | \$ 43,961 | \$ (1,439,970) | \$ 553,870 |
| Net Assets, July 1, 2025 | | | 9,139,181 | 586,974 | 1,468,387 | 79,752 | 42,777 | 11,317,071 | |
| Refund-Excess Operating Reserves | | | - | - | - | - | - | - | |
| Net Assets, End of Period | | | 7,707,924 | 461,499 | 1,514,651 | 106,289 | 86,738 | 9,877,101 | |
| Pool Assessments Outstanding | | | | (4,422) | (586,852) | - | | | |
| Pool Fund Balance | | | | \$ 457,077 | \$ 927,799 | \$ 106,289 | | | |

¹ Fund balance transfer pursuant to Peace Agreement § 5.4(a)



Chino Basin Watermaster

Treasurer's Report

May 2026

| | Type | Monthly Yield | Cost | Market | % Total |
|---------------------------------------|------------|---------------|----------------------|----------------------|---------------|
| Cash & Investments | | | | | |
| Local Agency Investment Fund (LAIF) * | Investment | 3.81% | \$ 694,414 | \$ 694,401 | 6.8% |
| CA CLASS Prime Fund ** | Investment | 3.70% | 7,871,815 | 7,872,035 | 76.8% |
| CA CLASS Pool Restricted Funds ** | Investment | 3.70% | 1,491,165 | 1,491,207 | 14.5% |
| Bank of America | Checking | | 196,832 | 196,832 | 1.9% |
| Bank of America | Payroll | | - | - | 0.0% |
| Total Cash & Investments | | | \$ 10,254,226 | \$ 10,254,475 | 100.0% |

* The LAIF Market Value factor is updated quarterly in September, December, March, and June.

** The CLASS Prime Fund Net Asset Value factor is updated monthly.

Certification

I certify that (1) all investment actions executed since the last report have been made in full compliance with Chino Basin Watermaster's Investment Policy, and (2) Funds on hand are sufficient to meet all foreseen and planned administrative and project expenditures for the next six months.

Anna Nelson, Director of Administration

Prepared By:

Daniela Uriarte, Senior Accountant



Chino Basin Watermaster

Budget to Actual

For the Period July 1, 2025 to May 31, 2026

(Unaudited)

| | May 2026 | YTD Actual | FY 25 Carryover Budget | FY 26 Adopted Budget | \$ Over / (Under) Budget | % of Budget |
|---|---------------------|-----------------------|------------------------------|----------------------------|--------------------------------|----------------|
| 1 Administration Revenue | | | | | | |
| 2 Local Agency Subsidies | \$ - | \$ 195,850 | \$ - | \$ 195,850 | \$ - | 100% |
| 3 Admin Assessments-Appropriative Pool | - | 6,426,042 | - | 11,131,622 | (4,705,580) | 58% |
| 4 Admin Assessments-Non-Ag Pool | - | 152,657 | - | 322,227 | (169,570) | 47% |
| 5 Total Administration Revenue | - | 6,774,548 | - | 11,649,699 | (4,875,151) | 58% |
| 6 Other Revenue | | | | | | |
| 7 Appropriative Pool-Replenishment | - | 81,011 | - | - | 81,011 | N/A |
| 8 Non-Ag Pool-Replenishment | - | 24,176 | - | - | 24,176 | N/A |
| 9 Interest Income | 23,175 | 273,366 | - | 368,030 | (94,664) | 74% |
| 10 Miscellaneous Income | - | - | - | - | - | N/A |
| 11 Total Other Revenue | 23,175 | 378,553 | - | 368,030 | 10,523 | 103% |
| 12 Total Revenue | 23,175 | 7,153,102 | - | 12,017,729 | (4,864,627) | 60% |
| 13 Judgment Administration Expense | | | | | | |
| 14 Judgment Administration | 30,009 | 607,884 | 14,344 | 910,511 | (316,971) | 66% |
| 15 Admin. Salary/Benefit Costs | 98,859 | 1,020,366 | - | 1,127,840 | (107,474) | 90% |
| 16 Office Building Expense | 19,346 | 214,997 | - | 228,535 | (13,538) | 94% |
| 17 Office Supplies & Equip. | 3,812 | 29,663 | 10,038 | 35,750 | (16,125) | 65% |
| 18 Postage & Printing Costs | 1,044 | 15,903 | - | 27,190 | (11,287) | 58% |
| 19 Information Services | 16,981 | 93,467 | - | 224,400 | (130,933) | 42% |
| 20 Contract Services | 330 | 52,608 | - | 103,950 | (51,342) | 51% |
| 21 Watermaster Legal Services | 20,890 | 656,834 | - | 346,011 | 310,823 | 190% |
| 22 Insurance | - | 65,894 | - | 55,000 | 10,894 | 120% |
| 23 Dues and Subscriptions | 494 | 39,391 | - | 40,900 | (1,509) | 96% |
| 24 Watermaster Administrative Expenses | 622 | 8,365 | - | 9,630 | (1,265) | 87% |
| 25 Field Supplies | - | 2,832 | - | 3,900 | (1,068) | 73% |
| 26 Travel & Transportation | 146 | 21,088 | - | 35,600 | (14,512) | 59% |
| 27 Training, Conferences, Seminars | 4,093 | 22,399 | - | 43,500 | (21,101) | 51% |
| 28 Advisory Committee Expenses | 10,739 | 100,395 | - | 111,785 | (11,390) | 90% |
| 29 Watermaster Board Expenses | 12,324 | 288,541 | - | 331,162 | (42,621) | 87% |
| 30 ONAP - WM & Administration | 9,620 | 62,947 | - | 123,585 | (60,638) | 51% |
| 31 OAP - WM & Administration | 10,131 | 71,996 | - | 140,528 | (68,532) | 51% |
| 32 Appropriative Pool- WM & Administration | 17,651 | 136,773 | - | 147,036 | (10,263) | 93% |
| 33 Allocated G&A Expenditures | (22,162) | (420,845) | - | (403,675) | (17,170) | 104% |
| 34 Total Judgment Administration Expense | 234,929 | 3,091,499 | 24,382 | 3,643,138 | (576,021) | 84% |
| 35 Optimum Basin Management Plan (OBMP) | | | | | | |
| 36 Optimum Basin Management Plan | 45,212 | 937,215 | 59,443 | 1,236,522 | (358,750) | 72% |
| 37 Groundwater Quality Monitoring | - | 1,636 | - | 4,500 | (2,864) | 36% |
| 38 Groundwater Level Monitoring | 29,048 | 476,317 | 15,800 | 500,880 | (40,363) | 92% |
| 39 Program Element (PE)2- Comp Recharge | 13,922 | 1,144,696 | 55,000 | 1,968,267 | (878,571) | 57% |
| 40 PE3&5-Water Supply/Desalte | 16,779 | 181,349 | 9,100 | 173,320 | (1,071) | 99% |
| 41 PE4- Management Plan | 57,372 | 501,333 | 124,788 | 604,076 | (227,531) | 69% |
| 42 PE6&7-CoopEfforts/SaltMgmt | 20,989 | 424,765 | 96,394 | 772,078 | (443,707) | 49% |
| 43 PE8&9-StorageMgmt/Conj Use | 68,857 | 734,010 | 168,963 | 272,480 | 292,567 | 166% |
| 44 Recharge Improvements | - | 565,507 | - | 2,438,793 | (1,873,286) | 23% |
| 45 Administration Expenses Allocated-OBMP | 7,530 | 118,952 | - | 139,094 | (20,142) | 86% |
| 46 Administration Expenses Allocated-PE 1-9 | 14,632 | 301,892 | - | 264,581 | 37,311 | 114% |
| 47 Total OBMP Expense | 274,340 | 5,387,673 | 529,488 | 8,374,591 | (3,516,406) | 61% |
| 48 Other Expense | | | | | | |
| 49 Groundwater Replenishment | - | 62,834 | - | 42,777 | 20,058 | 147% |
| 50 Other Expenses | - | - | - | - | - | N/A |
| 51 Total Other Expense | - | 62,834 | - | 42,777 | 20,058 | 147% |
| 52 Total Expenses | 509,269 | 8,542,006 | 553,870 | 12,060,506 | (4,072,369) | 68% |
| 53 Increase / (Decrease) to Reserves | \$ (486,095) | \$ (1,388,905) | \$ - | \$ (42,777) | \$ (1,346,128) | |



Chino Basin Watermaster

Monthly Variance Report & Supplemental Schedules

For the period July 1, 2025 to May 31, 2026

(Unaudited)

Budget to Actual

The Budget to Actual report summarizes the operating and non-operating revenues and expenses of Chino Basin Watermaster for the fiscal year-to-date (YTD). Columns are included for current monthly and YTD activity shown comparatively to the FY 26 amended budget and FY 25 carryover budget. The final two columns indicate the amount over or under budget, and the YTD percentage of total budget used. As of May 31st, the target budget percentage is generally 92%.

Revenues

Lines 1-5 Administration Revenue – Includes local agency subsidies and administrative assessment for the Appropriative, Agricultural and Non-Agricultural Pools.

- Line 2 Local Agency Subsidies includes the annual Dry Year Yield (DYY) administrative fee received. This account is at 100% of budget due to the timing of payment.

Lines 6-12 Other Revenue – Includes Pool replenishment assessments, interest income, miscellaneous income, and carryover budget from prior years.

Expenses

Lines 13-34 Judgment Administration Expense – Includes Watermaster general administrative expenses, contract services, insurance, office and other administrative expenses. Below is a summary of notable account variances at month end:

- Line 21 Watermaster Legal Services includes outside legal counsel expenses. The account is over budget due to increased administration matters and court coordination not originally anticipated in the budget.
- Line 22 Insurance includes general liability insurance, directors' and officers' liability, umbrella coverage, environmental pollution liability and other various insurance policies. The account is over budget due to an unanticipated increase in the cost of Municipalities Umbrella coverage, as well as the implementation of a Cyber insurance policy that was not included in the original budget.
- Line 23 Dues and Subscriptions include annual dues for ACWA, CA Groundwater Coalition, SHRM, and other miscellaneous subscriptions. The account is at 96% of budget due to the timing of subscription renewals.

Lines 35-47 Optimum Basin Management Plan (OBMP) Expense – Includes legal, engineering, groundwater level monitoring, allocated administrative expenses, and other expenses.

Lines 48-51 Other Expense – Includes groundwater replenishment, settlement expenses, and various refunds as appropriate.



Chino Basin Watermaster

Monthly Variance Report & Supplemental Schedules

For the period July 1, 2025 to May 31, 2026

(Unaudited)

Pool Services Fund Accounting

Each Pool has a fund account created to pay their own legal service invoices. The legal services invoices are funded and paid using the fund accounts (8467 for the Overlying Agricultural Pool (OAP), 8567 for the Overlying Non-Agricultural Pool (ONAP), and 8367 for the Appropriate Pool (AP)). Along with the legal services fund account for the OAP (8467), the OAP also has two other fund accounts for Ag Pool Meeting Attendance expenses (8470), and Special Projects expenses (8471). The ONAP also has a meeting compensation fund account (8511). Additionally, the OAP has a reserve fund that is held by Watermaster and spent at the direction of the OAP. The AP also has account 8368 relating to the Thomas Harder & Company contract. These fund accounts are replenished at the direction of each Pool, and the legal service invoices are approved by the Pool leadership and when paid by Watermaster, are deducted from the existing fund account balances. If the fund account for any pool reaches zero, no further payments can be paid from the fund, and a replenishment action must be initiated by the Pool.

The following tables detail the fund balance accounts as of May 31, 2026 (continued next page):

| | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|---|--|--|--|-------|--|---------------------------------|--------------|------------|--|---|----------|---|------------------|---------------------|------------------|--|-------------------|--------------------------------------|-------------------|--|---------------------------|--|--|--|---|--|--------------------------------------|--|---------------------------------|--------------|---------------------------------|---------------|---------------------|----------|-------------------|-----------|---|-----------|---|-------------------|--|----------------------------|-------------|--|--------------------------------------|-------------|-----------------|----------------------|----------------------|--------------------|--|-----------------------------|--|--|
| <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2">Fund Balance For Non-Agricultural Pool</td> </tr> <tr> <td colspan="2">Account 8567 - Legal Services</td> </tr> <tr> <td colspan="2"><hr/></td> </tr> <tr> <td>Beginning Balance July 1, 2025:</td> <td style="text-align: right;">\$ 77,376.71</td> </tr> <tr> <td>Additions:</td> <td></td> </tr> <tr> <td> Interest Earnings</td> <td style="text-align: right;">2,847.75</td> </tr> <tr> <td> Payments received on ONAP Assessment invoices issued 11/25/25</td> <td style="text-align: right;"><u>25,000.00</u></td> </tr> <tr> <td>Subtotal Additions:</td> <td style="text-align: right;"><u>27,847.75</u></td> </tr> <tr> <td>Reductions:</td> <td></td> </tr> <tr> <td> Invoices paid July 2025 - April 2026</td> <td style="text-align: right;"><u>(935.00)</u></td> </tr> <tr> <td>Subtotal Reductions:</td> <td style="text-align: right;"><u>(935.00)</u></td> </tr> <tr> <td>Available Fund Balance as of April 30, 2026</td> <td style="text-align: right;"><u>\$ 104,289.46</u></td> </tr> </table> | Fund Balance For Non-Agricultural Pool | | Account 8567 - Legal Services | | <hr/> | | Beginning Balance July 1, 2025: | \$ 77,376.71 | Additions: | | Interest Earnings | 2,847.75 | Payments received on ONAP Assessment invoices issued 11/25/25 | <u>25,000.00</u> | Subtotal Additions: | <u>27,847.75</u> | Reductions: | | Invoices paid July 2025 - April 2026 | <u>(935.00)</u> | Subtotal Reductions: | <u>(935.00)</u> | Available Fund Balance as of April 30, 2026 | <u>\$ 104,289.46</u> | <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2">Fund Balance For Appropriate Pool</td> </tr> <tr> <td colspan="2">Account 8367 - Legal Services</td> </tr> <tr> <td colspan="2"><hr/></td> </tr> <tr> <td>Beginning Balance July 1, 2025:</td> <td style="text-align: right;">\$ 224,225.46</td> </tr> <tr> <td>Additions:</td> <td></td> </tr> <tr> <td> Interest Earnings</td> <td style="text-align: right;">15,334.46</td> </tr> <tr> <td> Payments received on AP Assessment invoices issued 11/17/22</td> <td style="text-align: right;">81,892.83</td> </tr> <tr> <td> Payments received on appellant share of Post-TOA legal fees</td> <td style="text-align: right;"><u>112,640.87</u></td> </tr> <tr> <td>Subtotal Additions:</td> <td style="text-align: right;"><u>209,868.16</u></td> </tr> <tr> <td>Reductions:</td> <td></td> </tr> <tr> <td> Invoices paid July 2025 - April 2026</td> <td style="text-align: right;">(26,138.00)</td> </tr> <tr> <td> Budget Transfer</td> <td style="text-align: right;"><u>(25,000.00) *</u></td> </tr> <tr> <td>Subtotal Reductions:</td> <td style="text-align: right;"><u>(51,138.00)</u></td> </tr> <tr> <td>Available Fund Balance as of April 30, 2026</td> <td style="text-align: right;"><u>\$ 382,955.62</u></td> </tr> <tr> <td colspan="2"><i>*Transfer of funds issued to OAP meeting stipends per AP Chair direction.</i></td> </tr> </table> | Fund Balance For Appropriate Pool | | Account 8367 - Legal Services | | <hr/> | | Beginning Balance July 1, 2025: | \$ 224,225.46 | Additions: | | Interest Earnings | 15,334.46 | Payments received on AP Assessment invoices issued 11/17/22 | 81,892.83 | Payments received on appellant share of Post-TOA legal fees | <u>112,640.87</u> | Subtotal Additions: | <u>209,868.16</u> | Reductions: | | Invoices paid July 2025 - April 2026 | (26,138.00) | Budget Transfer | <u>(25,000.00) *</u> | Subtotal Reductions: | <u>(51,138.00)</u> | Available Fund Balance as of April 30, 2026 | <u>\$ 382,955.62</u> | <i>*Transfer of funds issued to OAP meeting stipends per AP Chair direction.</i> | |
| Fund Balance For Non-Agricultural Pool | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Account 8567 - Legal Services | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <hr/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Beginning Balance July 1, 2025: | \$ 77,376.71 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Additions: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Interest Earnings | 2,847.75 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Payments received on ONAP Assessment invoices issued 11/25/25 | <u>25,000.00</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Subtotal Additions: | <u>27,847.75</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Reductions: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Invoices paid July 2025 - April 2026 | <u>(935.00)</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Subtotal Reductions: | <u>(935.00)</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Available Fund Balance as of April 30, 2026 | <u>\$ 104,289.46</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fund Balance For Appropriate Pool | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Account 8367 - Legal Services | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <hr/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Beginning Balance July 1, 2025: | \$ 224,225.46 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Additions: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Interest Earnings | 15,334.46 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Payments received on AP Assessment invoices issued 11/17/22 | 81,892.83 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Payments received on appellant share of Post-TOA legal fees | <u>112,640.87</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Subtotal Additions: | <u>209,868.16</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Reductions: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Invoices paid July 2025 - April 2026 | (26,138.00) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Budget Transfer | <u>(25,000.00) *</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Subtotal Reductions: | <u>(51,138.00)</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Available Fund Balance as of April 30, 2026 | <u>\$ 382,955.62</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <i>*Transfer of funds issued to OAP meeting stipends per AP Chair direction.</i> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2">Fund Balance For Non-Agricultural Pool</td> </tr> <tr> <td colspan="2">Account 8511 - Meeting Compensation</td> </tr> <tr> <td colspan="2"><hr/></td> </tr> <tr> <td>Beginning Balance July 1, 2025:</td> <td style="text-align: right;">\$ 2,375.00</td> </tr> <tr> <td>Additions:</td> <td></td> </tr> <tr> <td> Payments received on ONAP Assessment invoices issued 11/25/25</td> <td style="text-align: right;">6,000.00</td> </tr> <tr> <td>Subtotal Additions:</td> <td style="text-align: right;"><u>6,000.00</u></td> </tr> <tr> <td>Reductions:</td> <td></td> </tr> <tr> <td> Compensation paid July 2025 - April 2026</td> <td style="text-align: right;"><u>(6,375.00)</u></td> </tr> <tr> <td>Subtotal Reductions:</td> <td style="text-align: right;"><u>(6,375.00)</u></td> </tr> <tr> <td>Available Fund Balance as of April 30, 2026</td> <td style="text-align: right;"><u>\$ 2,000.00</u></td> </tr> </table> | Fund Balance For Non-Agricultural Pool | | Account 8511 - Meeting Compensation | | <hr/> | | Beginning Balance July 1, 2025: | \$ 2,375.00 | Additions: | | Payments received on ONAP Assessment invoices issued 11/25/25 | 6,000.00 | Subtotal Additions: | <u>6,000.00</u> | Reductions: | | Compensation paid July 2025 - April 2026 | <u>(6,375.00)</u> | Subtotal Reductions: | <u>(6,375.00)</u> | Available Fund Balance as of April 30, 2026 | <u>\$ 2,000.00</u> | <table border="0" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2">Fund Balance For Appropriate Pool</td> </tr> <tr> <td colspan="2">Account 8368 - Tom Harder Contract</td> </tr> <tr> <td colspan="2"><hr/></td> </tr> <tr> <td>Beginning Balance July 1, 2025:</td> <td style="text-align: right;">\$ 20,577.61</td> </tr> <tr> <td>Additions:</td> <td></td> </tr> <tr> <td>Subtotal Additions:</td> <td style="text-align: right;"><u>-</u></td> </tr> <tr> <td>Reductions:</td> <td></td> </tr> <tr> <td> Invoices paid July 2025 - April 2026</td> <td style="text-align: right;">-</td> </tr> <tr> <td>Subtotal Reductions:</td> <td style="text-align: right;"><u>-</u></td> </tr> <tr> <td>Available Fund Balance as of April 30, 2026</td> <td style="text-align: right;"><u>\$ 20,577.61</u></td> </tr> </table> | Fund Balance For Appropriate Pool | | Account 8368 - Tom Harder Contract | | <hr/> | | Beginning Balance July 1, 2025: | \$ 20,577.61 | Additions: | | Subtotal Additions: | <u>-</u> | Reductions: | | Invoices paid July 2025 - April 2026 | - | Subtotal Reductions: | <u>-</u> | Available Fund Balance as of April 30, 2026 | <u>\$ 20,577.61</u> | | | | | | | | | | | | |
| Fund Balance For Non-Agricultural Pool | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Account 8511 - Meeting Compensation | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <hr/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Beginning Balance July 1, 2025: | \$ 2,375.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Additions: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Payments received on ONAP Assessment invoices issued 11/25/25 | 6,000.00 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Subtotal Additions: | <u>6,000.00</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Reductions: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Compensation paid July 2025 - April 2026 | <u>(6,375.00)</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Subtotal Reductions: | <u>(6,375.00)</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Available Fund Balance as of April 30, 2026 | <u>\$ 2,000.00</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Fund Balance For Appropriate Pool | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Account 8368 - Tom Harder Contract | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <hr/> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Beginning Balance July 1, 2025: | \$ 20,577.61 | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Additions: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Subtotal Additions: | <u>-</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Reductions: | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Invoices paid July 2025 - April 2026 | - | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Subtotal Reductions: | <u>-</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Available Fund Balance as of April 30, 2026 | <u>\$ 20,577.61</u> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |



Chino Basin Watermaster

Monthly Variance Report & Supplemental Schedules

For the period July 1, 2025 to May 31, 2026

(Unaudited)

Pool Services Fund Accounting – Cont.

Fund Balance for Agricultural Pool
Account 8467 - Legal Services (Held by AP)

| | |
|--|---------------------|
| Beginning Balance July 1, 2025: | \$ 225,597.51 |
| Reductions: | |
| Invoices paid July 2025 - April 2026 | (187,312.50) |
| Subtotal Reductions: | (187,312.50) |
| Available Fund Balance as of April 30, 2026 | \$ 38,285.01 |

Fund Balance For Agricultural Pool
Account 8470 - Meeting Compensation (Held by AP)

| | |
|--|--------------------|
| Beginning Balance July 1, 2025: | \$ 18,069.65 |
| Additions: | |
| Budget Transfer | 25,000.00 * |
| Subtotal Additions: | 25,000.00 |
| Reductions: | |
| Compensation paid July 2025 - April 2026 | (40,000.00) |
| Subtotal Reductions: | (40,000.00) |
| Available Fund Balance as of April 30, 2026 | \$ 3,069.65 |

*Transfer of funds issued from AP legal services per AP Chair direction.

Agricultural Pool Reserve Funds
As shown on the Combining Schedules

| | |
|--|----------------------|
| Beginning Balance July 1, 2025: | \$ 881,534.98 |
| Additions: | |
| YTD Interest earned on Ag Pool Funds FY 26 | 46,263.65 |
| Transfer of Funds from AP to Special Fund for Legal Service Invoices | 187,312.50 |
| Total Additions: | 233,576.15 |
| Reductions: | |
| Legal service invoices paid July 2025 - April 2026 | (187,312.50) |
| Subtotal Reductions: | (187,312.50) |
| Agricultural Pool Reserve Funds Balance as of April 30, 2026: | \$ 927,798.63 |

Fund Balance For Agricultural Pool
Account 8471 - Special Projects (Held by AP)

| | |
|--|---------------------|
| Beginning Balance July 1, 2025: | \$ 12,189.00 |
| Reductions: | |
| Invoices paid July 2025 - April 2026 | - |
| Subtotal Reductions: | - |
| Available Fund Balance as of April 30, 2026 | \$ 12,189.00 |



Chino Basin Watermaster

Monthly Variance Report & Supplemental Schedules

For the period July 1, 2025 to May 31, 2026

(Unaudited)

Watermaster Salary Expenses

The following table details the Year-To-Date (YTD) Actual Watermaster burdened salary costs compared to the FY 26 adopted budget. The “\$ Over Budget” and the “% of Budget” columns are a comparison of the YTD actual to the annual budget. As of May 31st, the target budget percentage is generally 92%.

| | Year to Date Actual | FY 25-26 Budget | \$ Over / (Under) Budget | % of Budget |
|---|------------------------|--------------------|-----------------------------|----------------|
| WM Salary Expense | | | | |
| 5901.1 · Judgment Admin - Doc. Review | 101,407 | 74,466 | 26,941 | 136.2% |
| 5901.3 · Judgment Admin - Field Work | 594 | 14,357 | (13,763) | 4.1% |
| 5901.5 · Judgment Admin - General | 5,857 | 55,535 | (49,678) | 10.5% |
| 5901.7 · Judgment Admin - Meeting | 49,425 | 45,648 | 3,777 | 108.3% |
| 5901.9 · Judgment Admin - Reporting | 3,843 | 21,742 | (17,899) | 17.7% |
| 5910 · Judgment Admin - Court Coord./Attendance | 9,608 | 28,837 | (19,229) | 33.3% |
| 5911 · Judgment Admin - Exhibit G | 876 | 6,396 | (5,520) | 13.7% |
| 5921 · Judgment Admin - Production Monitoring | - | 9,471 | (9,471) | 0.0% |
| 5931 · Judgment Admin - Recharge Applications | 2,894 | 33,092 | (30,198) | 8.7% |
| 5941 · Judgment Admin - Reporting | 1,155 | 44,602 | (43,447) | 2.6% |
| 5951 · Judgment Admin - Rules & Regs | 2,721 | 11,350 | (8,629) | 24.0% |
| 5961 · Judgment Admin - Safe Yield | 78,208 | 106,006 | (27,798) | 73.8% |
| 5971 · Judgment Admin - Storage Agreements | 4,819 | 20,671 | (15,852) | 23.3% |
| 5981 · Judgment Admin - Water Accounting/Database | 135,063 | 112,036 | 23,027 | 120.6% |
| 5991 · Judgment Admin - Water Transactions | 9,086 | 13,062 | (3,976) | 69.6% |
| 6011.11 · WM Staff - Overtime | 6,526 | 18,000 | (11,474) | 36.3% |
| 6011.10 · Admin - Accounting | 261,905 | 280,410 | (18,505) | 93.4% |
| 6011.15 · Admin - Building Admin | 18,217 | 31,040 | (12,823) | 58.7% |
| 6011.20 · Admin - Conference/Seminars | 41,663 | 50,660 | (8,997) | 82.2% |
| 6011.25 · Admin - Document Review | 99,802 | 54,110 | 45,692 | 184.4% |
| 6011.50 · Admin - General | 263,284 | 278,870 | (15,586) | 94.4% |
| 6011.60 · Admin - HR | 64,227 | 100,980 | (36,753) | 63.6% |
| 6011.70 · Admin - IT | 63,474 | 72,830 | (9,356) | 87.2% |
| 6011.80 · Admin - Meeting | 136,201 | 93,640 | 42,561 | 145.5% |
| 6011.90 · Admin - Team Building | 18,123 | 33,490 | (15,367) | 54.1% |
| 6011.95 · Admin - Training (Give/Receive) | 46,241 | 79,580 | (33,339) | 58.1% |
| 6017 · Temporary Services | - | 28,250 | (28,250) | 0.0% |
| 6201 · Advisory Committee | 49,170 | 61,397 | (12,227) | 80.1% |
| 6301 · Watermaster Board | 94,354 | 101,669 | (7,315) | 92.8% |
| 8301 · Appropriative Pool | 87,542 | 89,707 | (2,165) | 97.6% |
| 8401 · Agricultural Pool | 35,341 | 83,199 | (47,858) | 42.5% |
| 8501 · Non-Agricultural Pool | 26,630 | 66,256 | (39,626) | 40.2% |
| 6901.1 · OBMP - Document Review | 47,514 | 50,364 | (2,850) | 94.3% |
| 6901.3 · OBMP - Field Work | 2,418 | 9,471 | (7,053) | 25.5% |
| 6901.5 · OBMP - General | 47,091 | 52,005 | (4,914) | 90.6% |
| 6901.7 · OBMP - Meeting | 53,169 | 33,487 | 19,682 | 158.8% |
| 6901.9 · OBMP - Reporting | 4,987 | 39,176 | (34,189) | 12.7% |
| 7104.1 · PE1 - Monitoring Program | 223,074 | 166,708 | 56,366 | 133.8% |
| 7201 · PE2 - Comprehensive Recharge | 93,232 | 49,649 | 43,583 | 187.8% |
| 7301 · PE3&5 - Water Supply/Desalter | - | 19,189 | (19,189) | 0.0% |
| 7301.1 · PE5 - Reg. Supply Water Prgm. | 1,170 | 16,759 | (15,589) | 7.0% |
| 7401 · PE4 - MZ1 Subsidence Mgmt. Plan | 865 | 25,595 | (24,730) | 3.4% |
| 7501 · PE6 - Coop. Programs/Salt Mgmt. | 18,218 | 22,984 | (4,766) | 79.3% |
| 7501.1 · PE 7 - Salt Nutrient Mgmt. Plan | 594 | 16,786 | (16,192) | 3.5% |
| 7601 · PE8&9 - Storage Mgmt./Recovery | 56,635 | 33,288 | 23,347 | 170.1% |
| Subtotal WM Staff Costs | 2,268,783 | 2,656,820 | (388,037) | 85% |
| 60184.1 · Administrative Leave | 5,997 | - | 5,997 | 100.0% |
| 60185 · Vacation | 108,997 | 110,082 | (1,085) | 99.0% |
| 60185.1 · Comp Time | 8,827 | - | 8,827 | 100.0% |
| 60186 · Sick Leave | 58,612 | 81,688 | (23,076) | 71.8% |
| 60187 · Holidays | 75,684 | 102,102 | (26,418) | 74.1% |
| Subtotal WM Paid Leaves | 258,117 | 293,872 | (35,755) | 88% |
| Total WM Salary Costs | 2,526,899 | 2,950,692 | (423,793) | 85.6% |



Chino Basin Watermaster

Monthly Variance Report & Supplemental Schedules

For the period July 1, 2025 to May 31, 2026

(Unaudited)

Engineering

The following table details the Year-To-Date (YTD) Actual Engineering costs compared to the FY 26 adopted budget. The “\$ Over Budget” and the “% of Budget” columns are a comparison of the YTD actual to the annual budget. As of May 31st, the target budget percentage is generally 92%.

| | Year to Date Actual | FY 25-26 Budget | \$ Over / (Under) Budget | % of Budget |
|--|------------------------|---------------------|-----------------------------|----------------|
| Engineering Services Costs | | | | |
| 5901.8 · Judgment Admin - Meetings-Engineering Services | \$ - | \$ 38,909 | \$ (38,909) | 0.0% |
| 5906.71 · Judgment Admin - Data Requests-CBWM Staff | 77,370 | 109,124 | (31,755) | 70.9% |
| 5906.72 · Judgment Admin - Data Requests-Non-CBWM Staff | 55,831 | 56,483 | (652) | 98.8% |
| 5925 · Judgment Admin - Ag Production & Estimation | 33,162 | 31,992 | 1,170 | 103.7% |
| 5935 · Judgment Admin - Mat'l Physical Injury Requests | 3,802 | 41,668 | (37,866) | 9.1% |
| 5945 · Judgment Admin - WM Annual Report Preparation | 12,260 | 17,762 | (5,502) | 69.0% |
| 5965 · Judgment Admin - Support Data Collection & Mgmt Process | 19,903 | 17,302 | 2,601 | 115.0% |
| 6206 · Advisory Committee Meetings-WY Staff | 20,695 | 22,624 | (1,929) | 91.5% |
| 6306 · Watermaster Board Meetings-WY Staff | 27,635 | 22,624 | 5,011 | 122.1% |
| 8306 · Appropriative Pool Meetings-WY Staff | 27,621 | 22,624 | 4,997 | 122.1% |
| 8406 · Agricultural Pool Meetings-WY Staff | 17,355 | 22,624 | (5,269) | 76.7% |
| 8506 · Non-Agricultural Pool Meetings-WY Staff | 14,707 | 22,624 | (7,917) | 65.0% |
| 6901.8 · OBMP - Meetings-WY Staff | 93,692 | 38,909 | 54,783 | 240.8% |
| 6901.95 · OBMP - Reporting-WY Staff | 66,058 | 66,832 | (774) | 98.8% |
| 6906 · OBMP Engineering Services - Other | 60,741 | 65,810 | (5,069) | 92.3% |
| 6906.1 · OBMP Watermaster Model Update | 43,731 | 8,176 | 35,555 | 534.9% |
| 7104.3 · Grdwtr Level-Engineering | 229,410 | 274,794 | (45,384) | 83.5% |
| 7104.8 · Grdwtr Level-Contracted Services | 7,289 | 29,128 | (21,839) | 25.0% |
| 7104.9 · Grdwtr Level-Capital Equipment | 5,063 | 19,000 | (13,937) | 26.6% |
| 7202 · PE2-Comp Recharge-Engineering Services | 17,725 | 23,350 | (5,626) | 75.9% |
| 7202.2 · PE2-Comp Recharge-Engineering Services | 127,485 | 181,496 | (54,011) | 70.2% |
| 7302 · PE3&5-PBHSP Monitoring Program | 142,592 | 77,792 | 64,800 | 183.3% |
| 7303 · PE3&5-Engineering - Other | 9,318 | 21,080 | (11,763) | 44.2% |
| 7306 · PE3&5-Engineering - Outside Professionals | 24,703 | 31,500 | (6,797) | 78.4% |
| 7402 · PE4-Engineering | 195,287 | 301,531 | (106,244) | 64.8% |
| 7402.10 · PE4-Northwest MZ1 Area Project | 218,560 | 169,378 | 49,182 | 129.0% |
| 7403 · PE4-Eng. Services-Contracted Services-InSar | 28,953 | 28,600 | 353 | 101.2% |
| 7406 · PE4-Engineering Services-Outside Professionals | 46,069 | 55,155 | (9,086) | 83.5% |
| 7408 · PE4-Engineering Services-Network Equipment | 8,913 | 19,107 | (10,194) | 46.6% |
| 7502 · PE6&7-Engineering | 268,590 | 365,564 | (96,974) | 73.5% |
| 7502.2 · PE7-Groundwtr Quality Model | 1,579 | 70,216 | (68,638) | 2.2% |
| 7505 · PE6&7-Laboratory Services | 38,941 | 41,300 | (2,359) | 94.3% |
| 7510 · PE6&7-IEUA Salinity Mgmt. Plan | 27,433 | 9,522 | 17,911 | 288.1% |
| 7511 · PE6&7-SAWBMP Task Force-50% IEUA | 26,272 | 28,022 | (1,750) | 93.8% |
| 7517 · Surface Water Monitoring Plan-Chino Creek - 50% IEUA | 43,138 | 28,434 | 14,704 | 151.7% |
| 7520 · Preparation of Water Quality Mgmt. Plan | - | 39,250 | (39,250) | 0.0% |
| 7610 · PE8&9-Support 2020 Mgmt. Plan | - | 21,720 | (21,720) | 0.0% |
| 7614 · PE8&9-Support Imp. Safe Yield Court Order | 677,376 | 79,656 | 597,720 | 850.4% |
| 7615 · PE8&9-Develop 2025 Storage Plan | - | 137,816 | (137,816) | 0.0% |
| Total Engineering Services Costs | \$ 2,719,257 | \$ 2,659,500 | \$ 59,759 | 102.2% |

* West Yost and Subcontractor Engineering Budget of \$2,659,500 plus Carryover Funds from FY 2024/25 of \$508,838



Chino Basin Watermaster

Monthly Variance Report & Supplemental Schedules

For the period July 1, 2025 to May 31, 2026
(Unaudited)

Legal

The following table details the YTD Brownstein Hyatt Farber Schreck (BHFS) expenses and costs compared to the FY 26 adopted budget. The “\$ Over Budget” and the “% of Budget” columns are a comparison of the YTD actual to the annual budget. As of May 31st, the target budget percentage is generally 92%.

| | Year to Date Actual | FY 25-26 Budget | \$ Over / (Under) Budget | % of Budget |
|---|------------------------|---------------------|-----------------------------|----------------|
| 6070 · Watermaster Legal Services | | | | |
| 6071 · BHFS Legal - Court Coordination | \$ 390,598 | \$ 76,000 | \$ 314,598 | 513.9% |
| 6072 · BHFS Legal - Rules & Regulations | - | 10,495 | (10,495) | 0.0% |
| 6073 · BHFS Legal - Personnel Matters | 41,682 | 28,150 | 13,532 | 148.1% |
| 6074 · BHFS Legal - Interagency Issues | - | 40,536 | (40,536) | 0.0% |
| 6077 · BHFS Legal - Party Status Maintenance | - | 13,590 | (13,590) | 0.0% |
| 6078 · BHFS Legal - Miscellaneous (Note 1) | 224,554 | 177,240 | 47,314 | 126.7% |
| Total 6070 · Watermaster Legal Services | 656,834 | 346,011 | 310,823 | 189.8% |
| 6275 · BHFS Legal - Advisory Committee | 30,530 | 27,764 | 2,766 | 110.0% |
| 6375 · BHFS Legal - Board Meeting | 123,450 | 88,704 | 34,746 | 139.2% |
| 6375.1 · BHFS Legal - Board Workshop(s) | - | 29,215 | (29,215) | 0.0% |
| 8375 · BHFS Legal - Appropriative Pool | 21,610 | 34,705 | (13,095) | 62.3% |
| 8475 · BHFS Legal - Agricultural Pool | 19,300 | 34,705 | (15,405) | 55.6% |
| 8575 · BHFS Legal - Non-Ag Pool | 21,610 | 34,705 | (13,095) | 62.3% |
| Total BHFS Legal Services | 216,501 | 249,798 | (33,297) | 86.7% |
| 6907.3 · WM Legal Counsel | | | | |
| 6907.31 · Archibald South Plume | - | 12,565 | (12,565) | 0.0% |
| 6907.32 · Chino Airport Plume | - | 12,565 | (12,565) | 0.0% |
| 6907.33 · Desalter/Hydraulic Control | - | 38,680 | (38,680) | 0.0% |
| 6907.34 · Santa Ana River Water Rights | 8,157 | 21,405 | (13,248) | 38.1% |
| 6907.38 · Reg. Water Quality Cntrl Board | 610 | 63,200 | (62,590) | 1.0% |
| 6907.39 · Recharge Master Plan | 9,940 | 14,270 | (4,330) | 69.7% |
| 6907.41 · Prado Basin Habitat Sustainability | 1,560 | 10,290 | (8,730) | 15.2% |
| 6907.44 · SGMA Compliance | 132 | 10,290 | (10,158) | 1.3% |
| 6907.45 · OBMP Update | 8,799 | 177,240 | (168,441) | 5.0% |
| 6907.47 · 2020 Safe Yield Reset | 36,110 | 151,180 | (115,070) | 23.9% |
| 6907.50 · San Sevaine Basin Discharge - State Court | - | 54,130 | (54,130) | 0.0% |
| 6907.51 · San Sevaine Basin Discharge CWA Litigation | 442,467 | 150,440 | 292,027 | 294.1% |
| 6907.90 · WM Legal Counsel - Unanticipated | - | 38,885 | (38,885) | 0.0% |
| Total 6907 · WM Legal Counsel | 507,774 | 755,140 | (247,366) | 67.2% |
| Total Brownstein, Hyatt, Farber, Schreck Costs | \$ 1,381,109 | \$ 1,350,949 | \$ 30,160 | 102.2% |



Chino Basin Watermaster

Monthly Variance Report & Supplemental Schedules

For the period July 1, 2025 to May 31, 2026
(Unaudited)

Optimum Basin Management Plan (OBMP)

The following table details the Year-To-Date (YTD) Actual OBMP costs compared to the FY 26 adopted budget. The “\$ Over Budget” and the “% of Budget” columns are a comparison of the YTD actual to the annual budget. As of May 31st, the target budget percentage is generally 92%.

| | Year to Date Actual | FY 25-26 Budget | \$ Over / (Under) Budget | % of Budget |
|---|------------------------|---------------------|-----------------------------|----------------|
| 6900 · Optimum Basin Mgmt Plan | | | | |
| 6901.1 · OBMP - Document Review-WM Staff | \$ 47,514 | \$ 50,364 | \$ (2,850) | 94.3% |
| 6901.3 · OBMP - Field Work-WM Staff | 2,418 | 9,471 | (7,053) | 25.5% |
| 6901.5 · OBMP - General-WM Staff | 47,091 | 52,005 | (4,914) | 90.6% |
| 6901.7 · OBMP - Meeting-WM Staff | 53,169 | 33,487 | 19,682 | 158.8% |
| 6901.8 · OBMP - Meeting-West Yost | 93,692 | 38,909 | 54,783 | 240.8% |
| 6901.9 · OBMP - Reporting-WM Staff | 4,987 | 39,176 | (34,189) | 12.7% |
| 6901.95 · OBMP - Reporting-West Yost | 66,058 | 66,832 | (774) | 98.8% |
| Total 6901 · OBMP WM and West Yost Staff | 314,930 | 290,244 | 24,686 | 108.5% |
| 6903 · OBMP - SAWPA | | | | |
| 6903 · OBMP - SAWPA Group | 7,608 | 18,952 | (11,344) | 40.1% |
| Total 6903 · OBMP - SAWPA | 7,608 | 18,952 | (11,344) | 40.1% |
| 6906 · OBMP Engineering Services | | | | |
| 6906.1 · OBMP - Watermaster Model Update | 43,731 | 8,176 | 35,555 | 534.9% |
| 6906.21 · State of the Basin Report | - | - | - | 0.0% |
| 6906 · OBMP Engineering Services - Other | 60,741 | 65,810 | (5,069) | 92.3% |
| Total 6906 · OBMP Engineering Services | 104,472 | 73,986 | 30,486 | 141.2% |
| 6907 · OBMP Legal Fees | | | | |
| 6907.31 · Archibald South Plume | - | 12,565 | (12,565) | 0.0% |
| 6907.32 · Chino Airport Plume | - | 12,565 | (12,565) | 0.0% |
| 6907.33 · Desalter/Hydraulic Control | - | 38,680 | (38,680) | 0.0% |
| 6907.34 · Santa Ana River Water Rights | 8,157 | 21,405 | (13,248) | 38.1% |
| 6907.36 · Santa Ana River Habitat | - | - | - | 0.0% |
| 6907.38 · Reg. Water Quality Cntrl Board | 610 | 63,200 | (62,590) | 1.0% |
| 6907.39 · Recharge Master Plan | 9,940 | 14,270 | (4,330) | 69.7% |
| 6907.41 · Prado Basin Habitat Sustainability | 1,560 | 10,290 | (8,730) | 15.2% |
| 6907.44 · SGMA Compliance | 132 | 10,290 | (10,158) | 1.3% |
| 6907.45 · OBMP Update | 8,799 | 177,240 | (168,441) | 5.0% |
| 6907.47 · 2020 Safe Yield Reset | 36,110 | 151,180 | (115,070) | 23.9% |
| 6907.50 · San Sevaine Basin Discharge - State | - | 54,130 | (54,130) | 0.0% |
| 6907.51 · San Sevaine Basin Discharge CWA | 442,467 | 150,440 | 292,027 | 294.1% |
| 6907.90 · WM Legal Counsel - Unanticipated | - | 38,885 | (38,885) | 0.0% |
| Total 6907 · OBMP Legal Fees | 507,774 | 755,140 | (247,366) | 67.2% |
| 6909 · OBMP Other Expenses | | | | |
| 6909.6 · OBMP Expenses - Miscellaneous | - | 96,000 | (96,000) | 0.0% |
| Total 6909 · OBMP Other Expenses | - | 98,200 | (98,200) | 0.0% |
| Total 6900 · Optimum Basin Mgmt Plan | \$ 934,784 | \$ 1,236,522 | \$ (301,738) | 75.6% |



Chino Basin Watermaster

Monthly Variance Report & Supplemental Schedules

For the period July 1, 2025 to May 31, 2026
(Unaudited)

Judgment Administration

The following table details the Year-To-Date (YTD) Actual Judgment Administration costs compared to the FY 26 adopted budget. The “\$ Over Budget” and the “% of Budget” columns are a comparison of the YTD actual to the annual budget. As of May 31st, the target budget percentage is generally 92%.

| | Year to Date Actual | FY 25-26 Budget | \$ Over / (Under) Budget | % of Budget |
|---|------------------------|--------------------|-----------------------------|----------------|
| 5901 · Admin-WM Staff | | | | |
| 5901.1 · Admin-Doc. Review-WM Staff | \$ 101,407 | \$ 74,466 | \$ 26,941 | 136.2% |
| 5901.3 · Admin-Field Work-WM Staff | 594 | 14,357 | (13,763) | 4.1% |
| 5901.5 · Admin-General-WM Staff | 5,857 | 55,535 | (49,678) | 10.5% |
| 5901.7 · Admin-Meeting-WM Staff | 49,425 | 45,648 | 3,777 | 108.3% |
| 5901.8 · Admin-Meeting - West Yost | - | 38,909 | (38,909) | 0.0% |
| 5901.9 · Admin-Reporting-WM Staff | 3,843 | 21,742 | (17,899) | 17.7% |
| Total 5901 · Admin-WM Staff | 161,126 | 250,657 | (89,531) | 64.3% |
| 5900 · Judgment Admin Other Expenses | | | | |
| 5906.71 · Admin-Data Req-CBWM Staff | 77,370 | 109,124 | (31,755) | 70.9% |
| 5906.72 · Admin-Data Req-Non CBWM Staff | 55,831 | 56,483 | (652) | 98.8% |
| 5910 · Court Coordination/Attend-WM | 9,608 | 28,837 | (19,229) | 33.3% |
| 5911 · Exhibit G-WM Staff | 876 | 6,396 | (5,520) | 13.7% |
| 5921 · Production Monitoring-WM Staff | - | 9,471 | (9,471) | 0.0% |
| 5925 · Ag Prod & Estimation-West Yost | 33,162 | 31,992 | 1,170 | 103.7% |
| 5931 · Recharge Applications-WM Staff | 2,894 | 33,092 | (30,198) | 8.7% |
| 5935 · Admin-Mat'l Phy Inj Requests | 3,802 | 41,668 | (37,866) | 9.1% |
| 5941 · Reporting-WM Staff | 1,155 | 44,602 | (43,447) | 2.6% |
| 5945 · WM Annual Report Prep-West Yost | 12,260 | 17,762 | (5,502) | 69.0% |
| 5951 · Rules & Regs-WM Staff | 2,721 | 11,350 | (8,629) | 24.0% |
| 5961 · Safe Yield-WM Staff | 78,208 | 106,006 | (27,798) | 73.8% |
| 5965 · Support Data Collect-West Yost | 19,903 | 17,302 | 2,601 | 115.0% |
| 5971 · Storage Agreements-WM Staff | 4,819 | 20,671 | (15,852) | 23.3% |
| 5981 · Water Acct/Database-WM Staff | 135,063 | 112,036 | 23,027 | 120.6% |
| 5991 · Water Transactions-WM Staff | 9,086 | 13,062 | (3,976) | 69.6% |
| Total 5900 · Judgment Admin Other Expenses | 446,758 | 659,854 | (213,096) | 67.7% |
| Total 5900 · Judgment Administration | \$ 607,884 | \$ 910,511 | \$ (302,627) | 66.8% |



Chino Basin Watermaster

Monthly Variance Report & Supplemental Schedules

For the period July 1, 2025 to May 31, 2026

(Unaudited)

“Carry Over” Funding:

The “Carry Over” funding was calculated at the start of FY 26. The Total “Carry Over” funding amount of \$553,870 has been posted to the general ledger accounts. The total amount consisted of \$508,838 from Engineering Services, \$34,994 from OBMP Activities, and \$10,038 from Administration Services. More detailed information is provided on the table below.

Carry Over Budget Detail FY 2025/26

| Account | Description | Amount | Fiscal Year | Type |
|-------------------------------|---|-------------------|-------------|-------|
| 6038 | Other Office Equipment - Boardroom Upgrades | \$ 10,038 | FY 2020/21 | ADMIN |
| 7545 | Meter Installation - New Meter Installation, Calibration and Testing | 34,994 | FY 2018/19 | OBMP |
| 5925 | Agriculture Production and Estimation | 4,344 | FY 2024/25 | ENG |
| 5965 | Support for Implementation of Improved Data Collection and Management Process | 10,000 | FY 2024/25 | ENG |
| 6906.1 | Watermaster Model Application and Required Demonstrations | 59,443 | FY 2024/25 | ENG |
| 7104.3 | Groundwater Level Monitoring Program | 15,800 | FY 2024/25 | ENG |
| 7202.2 | Comprehensive Recharge Program | 55,000 | FY 2024/25 | ENG |
| 7302 | PBHSP Monitoring Program- 50% IEUA Cost Share | 9,100 | FY 2024/25 | ENG |
| 7402.1 | PE4/MZ-1: Subsidence Management Plan for Northwest MZ-1 | 124,788 | FY 2024/25 | ENG |
| 7502 | Groundwater Quality Monitoring and Reporting Program and as-needed Consulting | 41,400 | FY 2024/25 | ENG |
| 7517 | Implementation of Chino Creek Monitoring Program - IEUA Cost Share | 20,000 | FY 2024/25 | ENG |
| 7614 | Support Implementation of the Safe Yield Court Order | 168,963 | FY 2024/25 | ENG |
| Total Carryover Budget | | \$ 553,870 | | |



CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, CA 91730
909.484.3888 www.cbwm.org

STAFF REPORT

DATE: July 09, 2026
TO: AP/ONAP/OAP Committee Members
SUBJECT: Application: Water Transaction – 3 AF from Nicholson Family Trust to Fontana Water Company (Consent Calendar Item I.C.)

Issue: To consider the Consolidated Water Transfer Forms for the sale and transfer of 3 acre-feet of water from Nicholson Family Trust to Fontana Water Company. This purchase is made from Nicholson Family Trust's Annual Production Right. [Within WM Duties and Powers]

Recommendation: Provide advice and assistance to the Advisory Committee on the proposed transaction.

Financial Impact: None.

ACTIONS:

Appropriative Pool – July 09, 2026 [Recommended]: Advice and assistance.
Non-Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Advisory Committee – August 20, 2026 [Recommended]: Advice and assistance.
Watermaster Board – August 27, 2026 [Recommended]: Approval.

BACKGROUND

On July 13, 2000, the Court approved the Peace Agreement, the Implementation Plan, and the goals and objectives identified in the OBMP Phase I Report and ordered Watermaster to proceed in a manner consistent with the Peace Agreement. Under the Peace Agreement, Watermaster approval is required for applications to store, recapture, recharge, or transfer water, as well as for applications for credits or reimbursements, and storage and recovery programs.

Where this is no Material Physical Injury, Watermaster must approve the transaction. Where the request for Watermaster approval is submitted by a Party to the Judgment, there is a rebuttable presumption, under the Peace Agreement, that most of the transactions do not result in Material Physical Injury to a Party of the Judgment or the Basin (Storage and Recovery Programs do not have this presumption).

The date of this application is June 02, 2026, and notice of the transaction along with the materials submitted by the requestors was transmitted to stakeholders electronically on July 02, 2026.

DISCUSSION

Beyond confirmation of the source of the water to be transferred (Annual Production Right, Supplemental Water, or Excess Carryover), Watermaster will evaluate the eventual disposition of the transferred water (e.g. production, storage, etc.) at the end of the production year and account for the same consistent with the Watermaster Guidance Documents.

Water transactions occur each year and are included as production by the respective entity (if produced) in any relevant analysis conducted by West Yost pursuant to the Peace Agreement and the Rules & Regulations. There is no indication that additional analysis regarding this transaction is necessary at this time. As part of the OBMP Implementation Plan, measurement of groundwater levels and ground level changes are ongoing, and based on current data, there is no indication that the proposed water transaction will cause Material Physical Injury to a Party of the Judgment, or to the Basin.

Pursuant to the Rules & Regulations, "The Application shall not be considered by the Advisory Committee until at least twenty-one (21) days after the last of the three Pool Committee meetings to consider the matter." Therefore, this application will be presented to the Advisory Committee and Watermaster Board at their August 2026 meetings respectively.

ATTACHMENTS

1. Consolidated Form 3, 4, & 5
2. Notice Forms

**CONSOLIDATED WATER TRANSFER FORMS:
 FORM 3: APPLICATION FOR SALE OR TRANSFER OF RIGHT TO PRODUCE WATER FROM STORAGE
 FORM 4: APPLICATION OR AMENDMENT TO APPLICATION TO RECAPTURE WATER IN STORAGE
 FORM 5: APPLICATION TO TRANSFER ANNUAL PRODUCTION RIGHT OR SAFE YIELD**

FISCAL YEAR 2025 - 2026

DATE REQUESTED: June 2, 2026

AMOUNT REQUESTED: 3.0 Acre-Feet

| | |
|---|--|
| <p>TRANSFER FROM (SELLER / TRANSFEROR): Nicholson Family Trust</p> <hr/> <p>Name of Party P.O. Box 6010</p> <hr/> <p>Street Address El Monte CA. 92734</p> <hr/> <p>City State Zip Code (626) 448-6183</p> <hr/> <p>Telephone</p> <hr/> <p>Facsimile</p> | <p>TRANSFER TO (BUYER / TRANSFEREE): Fontana Water Company</p> <hr/> <p>Name of Party 15966 Arrow Route</p> <hr/> <p>Street Address Fontana CA. 92335</p> <hr/> <p>City State Zip Code (909) 822-2201</p> <hr/> <p>Telephone (909) 823-5046</p> <hr/> <p>Facsimile</p> |
|---|--|

Have any other transfers been approved by Watermaster between these parties covering the same fiscal year? Yes No

PURPOSE OF TRANSFER:

- Pump when other sources of supply are curtailed
- Pump to meet current or future demand over and above production right
- Pump as necessary to stabilize future assessment amounts
- Other, explain _____

WATER IS TO BE TRANSFERRED FROM:

- Annual Production Right (Appropriative Pool) or Operating Safe Yield (Non-Agricultural Pool)
- Storage
- Annual Production Right / Operating Safe Yield first, then any additional from Storage
- Other, explain _____

WATER IS TO BE TRANSFERRED TO:

- Annual Production Right / Operating Safe Yield (common)
- Storage (rare)
- Other, explain _____

IS THE 85/15 RULE EXPECTED TO APPLY? (If yes, all answers below must be "yes.") Yes No
Is the Buyer an 85/15 Party? Yes No
Is the purpose of the transfer to meet a current demand over and above production right? Yes No
Is the water being placed into the Buyer's Annual Account? Yes No

| | |
|--|---------------------------------|
| IF WATER IS TO BE TRANSFERRED FROM STORAGE: | |
| <u>Varies</u> | <u>2025-2026</u> |
| Projected Rate of Recapture | Projected Duration of Recapture |
| METHOD OF RECAPTURE (e.g. pumping, exchange, etc.): | |
| <u>Pumping</u> | |
| PLACE OF USE OF WATER TO BE RECAPTURED: | |
| <u>Chino Basin Management Zone 3</u> | |
| LOCATION OF RECAPTURE FACILITIES (IF DIFFERENT FROM REGULAR PRODUCTION FACILITIES): | |
| <u>N/A</u> | |

WATER QUALITY AND WATER LEVELS

Are the Parties aware of any water quality issues that exist in the area? Yes No

If yes, please explain:

In 2026, perchlorate and nitrate levels ranged as high as 6.7 ppb and 9.6 ppm respectively.

What are the existing water levels in the areas that are likely to be affected?

Static Water Levels ranging from 290 feet (bgs) to 677 feet (bgs) as of May 2026.

MATERIAL PHYSICAL INJURY

Are any of the recapture wells located within Management Zone 1? Yes No

Is the Applicant aware of any potential Material Physical Injury to a party to the Judgment or the Basin that may be caused by the action covered by the application? Yes No

If yes, what are the proposed mitigation measures, if any, that might reasonably be imposed to ensure that the action does not result in Material Physical Injury to a party to the Judgment or the Basin?

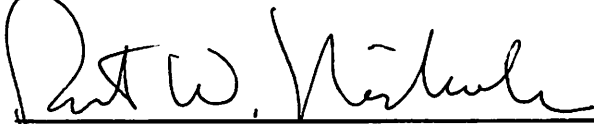
N/A

SAID TRANSFER SHALL BE CONDITIONED UPON:

- (1) Transferee shall exercise said right on behalf of Transferor under the terms of the Judgment, the Peace Agreement, the Peace II Agreement, and the Management Zone 1 Subsidence Management Plan for the period described above. The first water produced in any year shall be that produced pursuant to carry-over rights defined in the Judgment. After production of its carry-over rights, if any, the next (or first if no carry-over rights) water produced by Transferee from the Chino Basin shall be that produced hereunder.
- (2) Transferee shall put all waters utilized pursuant to said Transfer to reasonable beneficial use.
- (3) Transferee shall pay all Watermaster assessments on account of the water production hereby Transferred.
- (4) Any Transferee not already a party must Intervene and become a party to the Judgment.

ADDITIONAL INFORMATION ATTACHED

Yes No



Seller / Transferor Representative Signature

Robert Nicholson, Trustee

Seller / Transferor Representative Name (Printed)



Buyer / Transferee Representative Signature

Marty Zvirbulis, Vice President of Water Resources

Buyer / Transferee Representative Name (Printed)

TO BE COMPLETED BY WATERMASTER STAFF:

DATE OF WATERMASTER NOTICE: July 2, 2026

DATE OF APPROVAL FROM APPROPRIATIVE POOL: _____

DATE OF APPROVAL FROM NON-AGRICULTURAL POOL: _____

DATE OF APPROVAL FROM AGRICULTURAL POOL: _____

HEARING DATE, IF ANY: _____

DATE OF ADVISORY COMMITTEE APPROVAL: _____

DATE OF BOARD APPROVAL: _____



CHINO BASIN WATERMASTER

NOTICE

OF

APPLICATION(S)

RECEIVED FOR

TRANSFER OF WATER

Date of Notice:

July 2, 2026

This notice is to advise interested persons that the attached application(s) will come before the Watermaster Board on or after 30 days from the date of this notice.

APPLICATION FOR TRANSFER OF WATER

The attached staff report will be included in the meeting package at the time the transfer begins the Watermaster process.

NOTICE OF APPLICATION(S) RECEIVED

Date of Application: **June 2, 2026**

Date of this notice: **July 02, 2026**

Please take notice that the following Application has been received by Watermaster:

- Notice of Sale or Transfer – The purchase of 3.0 acre-feet of water from Nicholson Family Trust by Fontana Water Company. This purchase is made from Nicholson Family Trust’s Annual Production Right.

This **Application** will first be considered by each of the respective pool committees on the following dates:

| | |
|------------------------|---------------|
| Appropriative Pool: | July 09, 2026 |
| Non-Agricultural Pool: | July 09, 2026 |
| Agricultural Pool: | July 09, 2026 |

This **Application** will be scheduled for consideration by the Advisory Committee **no earlier than thirty days from the date of this notice and a minimum of twenty-one calendar days** after the last pool committee reviews it.

After consideration by the Advisory Committee, the **Application** will be considered by the Board.

Unless the **Application** is amended, as **Contests** must be submitted a minimum of fourteen (14) days prior to the Advisory Committee’s consideration of an **Application**, parties to the Judgment may file **Contests** to the **Application** with Watermaster **within seven calendar days** of when the last pool committee considers it. Any **Contest** must be in writing and state the basis of the **Contest**.

Watermaster address:

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

Tel: (909) 484-3888
Web: www.cbwm.org
watertransactions@cbwm.org



CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, CA 91730
909.484.3888 www.cbwm.org

STAFF REPORT

DATE: July 09, 2026
TO: AP/ONAP/OAP Committee Members
SUBJECT: Application: Water Transaction – 58.5 AF from City of Chino to City of Ontario (Consent Calendar Item I.D.)

Issue: To consider the Consolidated Water Transfer Forms for the sale and transfer of 58.5 acre-feet of water from City of Chino to City of Ontario. This purchase is requested to be transferred from City of Chino's Supplemental Storage Account. [Within WM Duties and Powers]

Recommendation: Provide advice and assistance to the Advisory Committee on the proposed transaction.

Financial Impact: None.

ACTIONS:

Appropriative Pool – July 09, 2026 [Recommended]: Advice and assistance.
Non-Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Advisory Committee – August 20, 2026 [Recommended]: Advice and assistance.
Watermaster Board – August 27, 2026 [Recommended]: Approval.

BACKGROUND

On July 13, 2000, the Court approved the Peace Agreement, the Implementation Plan, and the goals and objectives identified in the OBMP Phase I Report and ordered Watermaster to proceed in a manner consistent with the Peace Agreement. Under the Peace Agreement, Watermaster approval is required for applications to store, recapture, recharge, or transfer water, as well as for applications for credits or reimbursements, and storage and recovery programs.

Where this is no Material Physical Injury, Watermaster must approve the transaction. Where the request for Watermaster approval is submitted by a Party to the Judgment, there is a rebuttable presumption, under the Peace Agreement, that most of the transactions do not result in Material Physical Injury to a Party of the Judgment or the Basin (Storage and Recovery Programs do not have this presumption).

The date of this application is June 05, 2026, and notice of the transaction along with the materials submitted by the requestors was transmitted to stakeholders electronically on July 02, 2026.

DISCUSSION

Beyond confirmation of the source of the water to be transferred (Annual Production Right, Supplemental Water, or Excess Carryover), Watermaster will evaluate the eventual disposition of the transferred water (e.g. production, storage, etc.) at the end of the production year and account for the same consistent with the Watermaster Guidance Documents.

Water transactions occur each year and are included as production by the respective entity (if produced) in any relevant analysis conducted by West Yost pursuant to the Peace Agreement and the Rules & Regulations. There is no indication that additional analysis regarding this transaction is necessary at this time. As part of the OBMP Implementation Plan, measurement of groundwater levels and ground level changes are ongoing, and based on current data, there is no indication that the proposed water transaction will cause Material Physical Injury to a Party of the Judgment, or to the Basin.

Pursuant to the Rules & Regulations, “The Application shall not be considered by the Advisory Committee until at least twenty-one (21) days after the last of the three Pool Committee meetings to consider the matter.” Therefore, this application will be presented to the Advisory Committee and Watermaster Board at their August 2026 meetings respectively.

ATTACHMENTS

1. Consolidated Form 3, 4, & 5
2. Notice Forms

**CONSOLIDATED WATER TRANSFER FORMS:
 FORM 3: APPLICATION FOR SALE OR TRANSFER OF RIGHT TO PRODUCE WATER FROM STORAGE
 FORM 4: APPLICATION OR AMENDMENT TO APPLICATION TO RECAPTURE WATER IN STORAGE
 FORM 5: APPLICATION TO TRANSFER ANNUAL PRODUCTION RIGHT OR SAFE YIELD**

FISCAL YEAR 2025 - 2026

DATE REQUESTED: 6/05/2026

AMOUNT REQUESTED: 58.5 Acre-Feet

| | |
|---|---|
| TRANSFER FROM (SELLER / TRANSFEROR): | TRANSFER TO (BUYER / TRANSFEREE): |
| <u>City of Chino</u> | <u>City of Ontario</u> |
| Name of Party | Name of Party |
| <u>13220 Central Avenue</u> | <u>1425 S Bon View Avenue</u> |
| Street Address | Street Address |
| <u>Chino</u> <u>CA</u> <u>91710</u> | <u>Ontario</u> <u>CA</u> <u>91761</u> |
| City State Zip Code | City State Zip Code |
| <u>909-334-3535</u> | <u>(909) 395 -2605</u> |
| Telephone | Telephone |
| <u>NA</u> | <u>NA</u> |
| Facsimile | Facsimile |

Have any other transfers been approved by Watermaster between these parties covering the same fiscal year? Yes No

PURPOSE OF TRANSFER:

- Pump when other sources of supply are curtailed
- Pump to meet current or future demand over and above production right
- Pump as necessary to stabilize future assessment amounts
- Other, explain Temporary Assignment of Water

WATER IS TO BE TRANSFERRED FROM:

- Annual Production Right (Appropriative Pool) or Operating Safe Yield (Non-Agricultural Pool)
- Storage
- Annual Production Right / Operating Safe Yield first, then any additional from Storage
- Other, explain Supplemental Storage Account

WATER IS TO BE TRANSFERRED TO:

- Annual Production Right / Operating Safe Yield (common)
- Storage (rare) Supplemental Storage Account
- Other, explain _____

SAID TRANSFER SHALL BE CONDITIONED UPON:

- (1) Transferee shall exercise said right on behalf of Transferor under the terms of the Judgment, the Peace Agreement, the Peace II Agreement, and the Management Zone 1 Subsidence Management Plan for the period described above. The first water produced in any year shall be that produced pursuant to carry-over rights defined in the Judgment. After production of its carry-over rights, if any, the next (or first if no carry-over rights) water produced by Transferee from the Chino Basin shall be that produced hereunder.
- (2) Transferee shall put all waters utilized pursuant to said Transfer to reasonable beneficial use.
- (3) Transferee shall pay all Watermaster assessments on account of the water production hereby Transferred.
- (4) Any Transferee not already a party must Intervene and become a party to the Judgment.

ADDITIONAL INFORMATION ATTACHED

Yes No



Seller / Transferor Representative Signature

Hye Jin Lee, Director of Public Works
Seller / Transferor Representative Name (Printed)



Buyer / Transferee Representative Signature

Courtney Jones, Assistant General Manager
Buyer / Transferee Representative Name (Printed)

TO BE COMPLETED BY WATERMASTER STAFF:

DATE OF WATERMASTER NOTICE: July 2, 2026

DATE OF APPROVAL FROM APPROPRIATIVE POOL: _____

DATE OF APPROVAL FROM NON-AGRICULTURAL POOL: _____

DATE OF APPROVAL FROM AGRICULTURAL POOL: _____

HEARING DATE, IF ANY: _____

DATE OF ADVISORY COMMITTEE APPROVAL: _____

DATE OF BOARD APPROVAL: _____



CHINO BASIN WATERMASTER

NOTICE

OF

APPLICATION(S)

RECEIVED FOR

TRANSFER OF WATER

Date of Notice:

July 2, 2026

This notice is to advise interested persons that the attached application(s) will come before the Watermaster Board on or after 30 days from the date of this notice.

APPLICATION FOR TRANSFER OF WATER

The attached staff report will be included in the meeting package at the time the transfer begins the Watermaster process.

NOTICE OF APPLICATION(S) RECEIVED

Date of Application: **June 5, 2026**

Date of this notice: **July 02, 2026**

Please take notice that the following Application has been received by Watermaster:

- Notice of Sale or Transfer – The transfer of 58.5 acre-feet of water from City of Chino to City of Ontario. This transfer is made from City of Chino’s Supplemental Storage Account.

This **Application** will first be considered by each of the respective pool committees on the following dates:

| | |
|------------------------|---------------|
| Appropriative Pool: | July 09, 2026 |
| Non-Agricultural Pool: | July 09, 2026 |
| Agricultural Pool: | July 09, 2026 |

This **Application** will be scheduled for consideration by the Advisory Committee **no earlier than thirty days from the date of this notice and a minimum of twenty-one calendar days** after the last pool committee reviews it.

After consideration by the Advisory Committee, the **Application** will be considered by the Board.

Unless the **Application** is amended, as **Contests** must be submitted a minimum of fourteen (14) days prior to the Advisory Committee’s consideration of an **Application**, parties to the Judgment may file **Contests** to the **Application** with Watermaster **within seven calendar days** of when the last pool committee considers it. Any **Contest** must be in writing and state the basis of the **Contest**.

Watermaster address:

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

Tel: (909) 484-3888
Web: www.cbwm.org
watertransactions@cbwm.org



CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, CA 91730
909.484.3888 www.cbwm.org

STAFF REPORT

DATE: July 09, 2026
TO: AP/ONAP/OAP Committee Members
SUBJECT: Application: Water Transaction – 66.4 AF from West End Consolidated Water Company to Golden State Water Company (Consent Calendar Item I.E.)

Issue: To consider the Consolidated Water Transfer Forms for the sale and transfer of 66.4 AF from West End Consolidated Water Company to Golden State Water Company. This purchase is made from West End Consolidated Water Company's Annual Production Right. Golden State Water Company is utilizing this transaction to produce its West End Consolidated Water Company shares. [Within WM Duties and Powers]

Recommendation: Provide advice and assistance to the Advisory Committee on the proposed transaction.

Financial Impact: None.

ACTIONS:

Appropriative Pool – July 09, 2026 [Recommended]: Advice and assistance.
Non-Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Advisory Committee – August 20, 2026 [Recommended]: Advice and assistance.
Watermaster Board – August 27, 2026 [Recommended]: Approval.

BACKGROUND

On July 13, 2000, the Court approved the Peace Agreement, the Implementation Plan, and the goals and objectives identified in the OBMP Phase I Report and ordered Watermaster to proceed in a manner consistent with the Peace Agreement. Under the Peace Agreement, Watermaster approval is required for applications to store, recapture, recharge, or transfer water, as well as for applications for credits or reimbursements, and storage and recovery programs.

Where this is no Material Physical Injury, Watermaster must approve the transaction. Where the request for Watermaster approval is submitted by a Party to the Judgment, there is a rebuttable presumption, under the Peace Agreement, that most of the transactions do not result in Material Physical Injury to a Party of the Judgment or the Basin (Storage and Recovery Programs do not have this presumption).

The date of this application is June 01, 2026, and notice of the transaction along with the materials submitted by the requestors was transmitted to stakeholders electronically on July 02, 2026.

DISCUSSION

Beyond confirmation of the source of the water to be transferred (Annual Production Right, Supplemental Water, or Excess Carryover), Watermaster will evaluate the eventual disposition of the transferred water (e.g. production, storage, etc.) at the end of the production year and account for the same consistent with the Watermaster Guidance Documents.

Water transactions occur each year and are included as production by the respective entity (if produced) in any relevant analysis conducted by West Yost pursuant to the Peace Agreement and the Rules & Regulations. There is no indication that additional analysis regarding this transaction is necessary at this time. As part of the OBMP Implementation Plan, measurement of groundwater levels and ground level changes are ongoing, and based on current data, there is no indication that the proposed water transaction will cause Material Physical Injury to a Party of the Judgment, or to the Basin.

Pursuant to the Rules & Regulations, “The Application shall not be considered by the Advisory Committee until at least twenty-one (21) days after the last of the three Pool Committee meetings to consider the matter.” Therefore, this application will be presented to the Advisory Committee and Watermaster Board at their August 2026 meetings respectively.

ATTACHMENTS

1. Consolidated Form 3, 4, & 5
2. Notice Forms

**CONSOLIDATED WATER TRANSFER FORMS:
 FORM 3: APPLICATION FOR SALE OR TRANSFER OF RIGHT TO PRODUCE WATER FROM STORAGE
 FORM 4: APPLICATION OR AMENDMENT TO APPLICATION TO RECAPTURE WATER IN STORAGE
 FORM 5: APPLICATION TO TRANSFER ANNUAL PRODUCTION RIGHT OR SAFE YIELD**

FISCAL YEAR 2025 - 2026

DATE REQUESTED: June 1, 2026

AMOUNT REQUESTED: 66.4 Acre-Feet

| | |
|--|--|
| <p>TRANSFER FROM (SELLER / TRANSFEROR):</p> <p><u>West End Consolidated Water Company</u> Name of Party</p> <p><u>1370 North Benson Avenue</u> Street Address</p> <p><u>Upland</u> <u>CA</u> <u>91786</u> City State Zip Code</p> <p><u>(909) 291-2931</u> Telephone</p> <p>_____ Facsimile</p> | <p>TRANSFER TO (BUYER / TRANSFEREE):</p> <p><u>Golden State Water Company</u> Name of Party</p> <p><u>630 East Foothill Boulevard</u> Street Address</p> <p><u>San Dimas</u> <u>CA</u> <u>91733</u> City State Zip Code</p> <p><u>(909) 394-3600</u> Telephone</p> <p>_____ Facsimile</p> |
|--|--|

Have any other transfers been approved by Watermaster between these parties covering the same fiscal year? Yes No

PURPOSE OF TRANSFER:

- Pump when other sources of supply are curtailed
- Pump to meet current or future demand over and above production right
- Pump as necessary to stabilize future assessment amounts
- Other, explain _____

WATER IS TO BE TRANSFERRED FROM:

- Annual Production Right (Appropriative Pool) or Operating Safe Yield (Non-Agricultural Pool)
- Storage
- Annual Production Right / Operating Safe Yield first, then any additional from Storage
- Other, explain _____

WATER IS TO BE TRANSFERRED TO:

- Annual Production Right / Operating Safe Yield (common)
- Storage (rare)
- Other, explain _____

IS THE 85/15 RULE EXPECTED TO APPLY? (If yes, all answers below must be "yes.") Yes No
Is the Buyer an 85/15 Party? Yes No
Is the purpose of the transfer to meet a current demand over and above production right? Yes No
Is the water being placed into the Buyer's Annual Account? Yes No

IF WATER IS TO BE TRANSFERRED FROM STORAGE:

Projected Rate of Recapture _____ Projected Duration of Recapture _____

METHOD OF RECAPTURE (e.g. pumping, exchange, etc.):

Pumping _____

PLACE OF USE OF WATER TO BE RECAPTURED:

Margarita well _____

LOCATION OF RECAPTURE FACILITIES (IF DIFFERENT FROM REGULAR PRODUCTION FACILITIES):

WATER QUALITY AND WATER LEVELS

Are the Parties aware of any water quality issues that exist in the area? Yes No

If yes, please explain:

What are the existing water levels in the areas that are likely to be affected?

MATERIAL PHYSICAL INJURY

Are any of the recapture wells located within Management Zone 1? Yes No

Is the Applicant aware of any potential Material Physical Injury to a party to the Judgment or the Basin that may be caused by the action covered by the application? Yes No

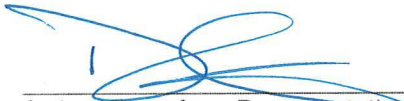
If yes, what are the proposed mitigation measures, if any, that might reasonably be imposed to ensure that the action does not result in Material Physical Injury to a party to the Judgment or the Basin?

SAID TRANSFER SHALL BE CONDITIONED UPON:

- (1) Transferee shall exercise said right on behalf of Transferor under the terms of the Judgment, the Peace Agreement, the Peace II Agreement, and the Management Zone 1 Subsidence Management Plan for the period described above. The first water produced in any year shall be that produced pursuant to carry-over rights defined in the Judgment. After production of its carry-over rights, if any, the next (or first if no carry-over rights) water produced by Transferee from the Chino Basin shall be that produced hereunder.
- (2) Transferee shall put all waters utilized pursuant to said Transfer to reasonable beneficial use.
- (3) Transferee shall pay all Watermaster assessments on account of the water production hereby Transferred.
- (4) Any Transferee not already a party must Intervene and become a party to the Judgment.

ADDITIONAL INFORMATION ATTACHED

Yes No



 Seller / Transferor Representative Signature

Damien Arrula, General Manager


 Seller / Transferor Representative Name (Printed)

David Schickling
 Digitally signed by David Schickling
 Date: 2026.06.01 15:23:32 -0700'

 Buyer / Transferee Representative Signature

David Schickling, VP Ops

 Buyer / Transferee Representative Name (Printed)



 Eva Tang, Senior VP

TO BE COMPLETED BY WATERMASTER STAFF:

DATE OF WATERMASTER NOTICE: July 2, 2026

DATE OF APPROVAL FROM APPROPRIATIVE POOL: _____

DATE OF APPROVAL FROM NON-AGRICULTURAL POOL: _____

DATE OF APPROVAL FROM AGRICULTURAL POOL: _____

HEARING DATE, IF ANY: _____

DATE OF ADVISORY COMMITTEE APPROVAL: _____

DATE OF BOARD APPROVAL: _____



CHINO BASIN WATERMASTER

NOTICE

OF

APPLICATION(S)

RECEIVED FOR

TRANSFER OF WATER

Date of Notice:

July 2, 2026

This notice is to advise interested persons that the attached application(s) will come before the Watermaster Board on or after 30 days from the date of this notice.

APPLICATION FOR TRANSFER OF WATER

The attached staff report will be included in the meeting package at the time the transfer begins the Watermaster process.

NOTICE OF APPLICATION(S) RECEIVED

Date of Application: **June 1, 2026**

Date of this notice: **July 02, 2026**

Please take notice that the following Application has been received by Watermaster:

- Notice of Sale or Transfer – The purchase of 66.4 acre-feet of water from West End Consolidated Water Company by Golden State Water Company. This purchase is made from West End Consolidated Water Company’s Annual Production Right. Golden State Water Company is utilizing this transaction to produce its West End Consolidated Water Company shares.

This **Application** will first be considered by each of the respective pool committees on the following dates:

| | |
|------------------------|---------------|
| Appropriative Pool: | July 09, 2026 |
| Non-Agricultural Pool: | July 09, 2026 |
| Agricultural Pool: | July 09, 2026 |

This **Application** will be scheduled for consideration by the Advisory Committee **no earlier than thirty days from the date of this notice and a minimum of twenty-one calendar days** after the last pool committee reviews it.

After consideration by the Advisory Committee, the **Application** will be considered by the Board.

Unless the **Application** is amended, as **Contests** must be submitted a minimum of fourteen (14) days prior to the Advisory Committee’s consideration of an **Application**, parties to the Judgment may file **Contests** to the **Application** with Watermaster **within seven calendar days** of when the last pool committee considers it. Any **Contest** must be in writing and state the basis of the **Contest**.

Watermaster address:

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

Tel: (909) 484-3888
Web: www.cbwm.org
watertransactions@cbwm.org



CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, CA 91730
909.484.3888 www.cbwm.org

STAFF REPORT

DATE: July 09, 2026
TO: AP/ONAP/OAP Committee Members
SUBJECT: Application: Water Transaction – 620 AF from West End Consolidated Water Company to City of Upland (Consent Calendar Item I.F.)

Issue: To consider the Consolidated Water Transfer Forms for the sale and transfer of 620 AF from West End Consolidated Water Company to City of Upland. This purchase is made from West End Consolidated Water Company's Excess Carry Over Storage Account. The City of Upland is utilizing this transaction to produce its West End Consolidated Water Company shares. [Within WM Duties and Powers]

Recommendation: Provide advice and assistance to the Advisory Committee on the proposed transaction.

Financial Impact: None.

ACTIONS:

Appropriative Pool – July 09, 2026 [Recommended]: Advice and assistance.
Non-Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Advisory Committee – August 20, 2026 [Recommended]: Advice and assistance.
Watermaster Board – August 27, 2026 [Recommended]: Approval.

BACKGROUND

On July 13, 2000, the Court approved the Peace Agreement, the Implementation Plan, and the goals and objectives identified in the OBMP Phase I Report and ordered Watermaster to proceed in a manner consistent with the Peace Agreement. Under the Peace Agreement, Watermaster approval is required for applications to store, recapture, recharge, or transfer water, as well as for applications for credits or reimbursements, and storage and recovery programs.

Where this is no Material Physical Injury, Watermaster must approve the transaction. Where the request for Watermaster approval is submitted by a Party to the Judgment, there is a rebuttable presumption, under the Peace Agreement, that most of the transactions do not result in Material Physical Injury to a Party of the Judgment or the Basin (Storage and Recovery Programs do not have this presumption).

The date of this application is June 01, 2026, and notice of the transaction along with the materials submitted by the requestors was transmitted to stakeholders electronically on July 02, 2026.

DISCUSSION

Beyond confirmation of the source of the water to be transferred (Annual Production Right, Supplemental Water, or Excess Carryover), Watermaster will evaluate the eventual disposition of the transferred water (e.g. production, storage, etc.) at the end of the production year and account for the same consistent with the Watermaster Guidance Documents.

Water transactions occur each year and are included as production by the respective entity (if produced) in any relevant analysis conducted by West Yost pursuant to the Peace Agreement and the Rules & Regulations. There is no indication that additional analysis regarding this transaction is necessary at this time. As part of the OBMP Implementation Plan, measurement of groundwater levels and ground level changes are ongoing, and based on current data, there is no indication that the proposed water transaction will cause Material Physical Injury to a Party of the Judgment, or to the Basin.

Pursuant to the Rules & Regulations, "The Application shall not be considered by the Advisory Committee until at least twenty-one (21) days after the last of the three Pool Committee meetings to consider the matter." Therefore, this application will be presented to the Advisory Committee and Watermaster Board at their August 2026 meetings respectively.

ATTACHMENTS

1. Consolidated Form 3, 4, & 5
2. Notice Forms

CONSOLIDATED WATER TRANSFER FORMS:
FORM 3: APPLICATION FOR SALE OR TRANSFER OF RIGHT TO PRODUCE WATER FROM STORAGE
FORM 4: APPLICATION OR AMENDMENT TO APPLICATION TO RECAPTURE WATER IN STORAGE
FORM 5: APPLICATION TO TRANSFER ANNUAL PRODUCTION RIGHT OR SAFE YIELD

FISCAL YEAR 2025 - 2026

DATE REQUESTED: 6/1/2026

AMOUNT REQUESTED: 620 Acre-Feet

| | |
|--|--|
| <p>TRANSFER FROM (SELLER / TRANSFEROR):</p> <p><u>West End Consolidated Water Company</u> Name of Party</p> <p><u>1370 N. Benson Ave</u> Street Address</p> <p><u>Upland</u> <u>CA</u> <u>91786</u> City State Zip Code</p> <p><u>(909) 291-2931</u> Telephone</p> <p>_____ Facsimile</p> | <p>TRANSFER TO (BUYER / TRANSFEREE):</p> <p><u>The City of Upland</u> Name of Party</p> <p><u>460 N Euclid Ave</u> Street Address</p> <p><u>Upland</u> <u>CA</u> <u>91786</u> City State Zip Code</p> <p><u>(909) 931-4102</u> Telephone</p> <p>_____ Facsimile</p> |
|--|--|

Have any other transfers been approved by Watermaster between these parties covering the same fiscal year? Yes No

PURPOSE OF TRANSFER:

- Pump when other sources of supply are curtailed
- Pump to meet current or future demand over and above production right
- Pump as necessary to stabilize future assessment amounts
- Other, explain _____

WATER IS TO BE TRANSFERRED FROM:

- Annual Production Right (Appropriative Pool) or Operating Safe Yield (Non-Agricultural Pool)
- Storage
- Annual Production Right / Operating Safe Yield first, then any additional from Storage
- Other, explain Excess Carry Over _____

WATER IS TO BE TRANSFERRED TO:

- Annual Production Right / Operating Safe Yield (common)
- Storage (rare)
- Other, explain _____

IS THE 85/15 RULE EXPECTED TO APPLY? (If yes, all answers below must be "yes.") Yes No

Is the Buyer an 85/15 Party? Yes No

Is the purpose of the transfer to meet a current demand over and above production right? Yes No

Is the water being placed into the Buyer's Annual Account? Yes No

IF WATER IS TO BE TRANSFERRED FROM STORAGE:

700-1,100 gpm _____
Projected Rate of Recapture Projected Duration of Recapture

METHOD OF RECAPTURE (e.g. pumping, exchange, etc.):

Pumping _____

PLACE OF USE OF WATER TO BE RECAPTURED:

Regular Production Wells _____

LOCATION OF RECAPTURE FACILITIES (IF DIFFERENT FROM REGULAR PRODUCTION FACILITIES):

WATER QUALITY AND WATER LEVELS

Are the Parties aware of any water quality issues that exist in the area? Yes No

If yes, please explain:

Nitrate 56 ppm & DBCP .35 ppb _____

What are the existing water levels in the areas that are likely to be affected?

Static Water Level 55 to 610 bgs _____

MATERIAL PHYSICAL INJURY

Are any of the recapture wells located within Management Zone 1? Yes No

Is the Applicant aware of any potential Material Physical Injury to a party to the Judgment or the Basin that may be caused by the action covered by the application? Yes No

If yes, what are the proposed mitigation measures, if any, that might reasonably be imposed to ensure that the action does not result in Material Physical Injury to a party to the Judgment or the Basin?

SAID TRANSFER SHALL BE CONDITIONED UPON:

- (1) Transferee shall exercise said right on behalf of Transferor under the terms of the Judgment, the Peace Agreement, the Peace II Agreement, and the Management Zone 1 Subsidence Management Plan for the period described above. The first water produced in any year shall be that produced pursuant to carry-over rights defined in the Judgment. After production of its carry-over rights, if any, the next (or first if no carry-over rights) water produced by Transferee from the Chino Basin shall be that produced hereunder.
- (2) Transferee shall put all waters utilized pursuant to said Transfer to reasonable beneficial use.
- (3) Transferee shall pay all Watermaster assessments on account of the water production hereby Transferred.
- (4) Any Transferee not already a party must Intervene and become a party to the Judgment.

ADDITIONAL INFORMATION ATTACHED

Yes No



 Seller / Transferor Representative Signature

Damien Arrula, General Manager

 Seller / Transferor Representative Name (Printed)



 Buyer / Transferee Representative Signature

Michael Blay, City Manager

 Buyer / Transferee Representative Name (Printed)

TO BE COMPLETED BY WATERMASTER STAFF:

DATE OF WATERMASTER NOTICE: July 2, 2026

DATE OF APPROVAL FROM APPROPRIATIVE POOL: _____

DATE OF APPROVAL FROM NON-AGRICULTURAL POOL: _____

DATE OF APPROVAL FROM AGRICULTURAL POOL: _____

HEARING DATE, IF ANY: _____

DATE OF ADVISORY COMMITTEE APPROVAL: _____

DATE OF BOARD APPROVAL: _____



CHINO BASIN WATERMASTER

NOTICE

OF

APPLICATION(S)

RECEIVED FOR

TRANSFER OF WATER

Date of Notice:

July 2, 2026

This notice is to advise interested persons that the attached application(s) will come before the Watermaster Board on or after 30 days from the date of this notice.

APPLICATION FOR TRANSFER OF WATER

The attached staff report will be included in the meeting package at the time the transfer begins the Watermaster process.

NOTICE OF APPLICATION(S) RECEIVED

Date of Application: **June 1, 2026**

Date of this notice: **July 02, 2026**

Please take notice that the following Application has been received by Watermaster:

- Notice of Sale or Transfer – The purchase of 620 acre-feet of water from West End Consolidated Water Company by City of Upland. This purchase is made from West End Consolidated Water Company’s Excess Carryover Storage Account. City of Upland is utilizing this transaction to produce its West End Consolidated Water Company shares.

This **Application** will first be considered by each of the respective pool committees on the following dates:

| | |
|------------------------|---------------|
| Appropriative Pool: | July 09, 2026 |
| Non-Agricultural Pool: | July 09, 2026 |
| Agricultural Pool: | July 09, 2026 |

This **Application** will be scheduled for consideration by the Advisory Committee **no earlier than thirty days from the date of this notice and a minimum of twenty-one calendar days** after the last pool committee reviews it.

After consideration by the Advisory Committee, the **Application** will be considered by the Board.

Unless the **Application** is amended, as **Contests** must be submitted a minimum of fourteen (14) days prior to the Advisory Committee’s consideration of an **Application**, parties to the Judgment may file **Contests** to the **Application** with Watermaster **within seven calendar days** of when the last pool committee considers it. Any **Contest** must be in writing and state the basis of the **Contest**.

Watermaster address:

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

Tel: (909) 484-3888
Web: www.cbwm.org
watertransactions@cbwm.org



CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, CA 91730
909.484.3888 www.cbwm.org

STAFF REPORT

DATE: July 09, 2026
TO: AP/ONAP/OAP Committee Members
SUBJECT: Application: Water Transaction – 620 AF from City of Upland to Golden State Water Company (Consent Calendar Item I.G.)

Issue: To consider the Consolidated Water Transfer Forms for the sale and transfer of 620 acre-feet of water from City of Upland to Golden State Water Company. This purchase is made from City of Upland's Annual Production Right. [Within WM Duties and Powers]

Recommendation: Provide advice and assistance to the Advisory Committee on the proposed transaction.

Financial Impact: None.

ACTIONS:

Appropriative Pool – July 09, 2026 [Recommended]: Advice and assistance.
Non-Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Advisory Committee – August 20, 2026 [Recommended]: Advice and assistance.
Watermaster Board – August 27, 2026 [Recommended]: Approval.

BACKGROUND

On July 13, 2000, the Court approved the Peace Agreement, the Implementation Plan, and the goals and objectives identified in the OBMP Phase I Report and ordered Watermaster to proceed in a manner consistent with the Peace Agreement. Under the Peace Agreement, Watermaster approval is required for applications to store, recapture, recharge, or transfer water, as well as for applications for credits or reimbursements, and storage and recovery programs.

Where this is no Material Physical Injury, Watermaster must approve the transaction. Where the request for Watermaster approval is submitted by a Party to the Judgment, there is a rebuttable presumption, under the Peace Agreement, that most of the transactions do not result in Material Physical Injury to a Party of the Judgment or the Basin (Storage and Recovery Programs do not have this presumption).

The date of this application is June 01, 2026, and notice of the transaction along with the materials submitted by the requestors was transmitted to stakeholders electronically on July 02, 2026.

DISCUSSION

Beyond confirmation of the source of the water to be transferred (Annual Production Right, Supplemental Water, or Excess Carryover), Watermaster will evaluate the eventual disposition of the transferred water (e.g. production, storage, etc.) at the end of the production year and account for the same consistent with the Watermaster Guidance Documents.

Water transactions occur each year and are included as production by the respective entity (if produced) in any relevant analysis conducted by West Yost pursuant to the Peace Agreement and the Rules & Regulations. There is no indication that additional analysis regarding this transaction is necessary at this time. As part of the OBMP Implementation Plan, measurement of groundwater levels and ground level changes are ongoing, and based on current data, there is no indication that the proposed water transaction will cause Material Physical Injury to a Party of the Judgment, or to the Basin.

Pursuant to the Rules & Regulations, “The Application shall not be considered by the Advisory Committee until at least twenty-one (21) days after the last of the three Pool Committee meetings to consider the matter.” Therefore, this application will be presented to the Advisory Committee and Watermaster Board at their August 2026 meetings respectively.

ATTACHMENTS

1. Consolidated Form 3, 4, & 5
2. Notice Forms

CONSOLIDATED WATER TRANSFER FORMS:
 FORM 3: APPLICATION FOR SALE OR TRANSFER OF RIGHT TO PRODUCE WATER FROM STORAGE
 FORM 4: APPLICATION OR AMENDMENT TO APPLICATION TO RECAPTURE WATER IN STORAGE
 FORM 5: APPLICATION TO TRANSFER ANNUAL PRODUCTION RIGHT OR SAFE YIELD

FISCAL YEAR 2025 - 2026

DATE REQUESTED: June 1, 2026

AMOUNT REQUESTED: 620 Acre-Feet

| | |
|---|--|
| <p>TRANSFER FROM (SELLER / TRANSFEROR):</p> <p><u>City of Upland</u> Name of Party</p> <p><u>1370 North Benson Avenue</u> Street Address</p> <p><u>Upland</u> <u>CA</u> <u>91786</u> City State Zip Code</p> <p><u>(909) 291-2931</u> Telephone</p> <p>_____ Facsimile</p> | <p>TRANSFER TO (BUYER / TRANSFEREE):</p> <p><u>Golden State Water Company</u> Name of Party</p> <p><u>630 East Foothill Boulevard</u> Street Address</p> <p><u>San Dimas</u> <u>CA</u> <u>91733</u> City State Zip Code</p> <p><u>(909) 394-3600</u> Telephone</p> <p>_____ Facsimile</p> |
|---|--|

Have any other transfers been approved by Watermaster between these parties covering the same fiscal year? Yes No

PURPOSE OF TRANSFER:

- Pump when other sources of supply are curtailed
- Pump to meet current or future demand over and above production right
- Pump as necessary to stabilize future assessment amounts
- Other, explain _____

WATER IS TO BE TRANSFERRED FROM:

- Annual Production Right (Appropriative Pool) or Operating Safe Yield (Non-Agricultural Pool)
- Storage
- Annual Production Right / Operating Safe Yield first, then any additional from Storage
- Other, explain _____

WATER IS TO BE TRANSFERRED TO:

- Annual Production Right / Operating Safe Yield (common)
- Storage (rare)
- Other, explain _____

IS THE 85/15 RULE EXPECTED TO APPLY? (If yes, all answers below must be "yes.") Yes No
Is the Buyer an 85/15 Party? Yes No
Is the purpose of the transfer to meet a current demand over and above production right? Yes No
Is the water being placed into the Buyer's Annual Account? Yes No

IF WATER IS TO BE TRANSFERRED FROM STORAGE:

Projected Rate of Recapture _____ Projected Duration of Recapture _____

METHOD OF RECAPTURE (e.g. pumping, exchange, etc.):

Pumping _____

PLACE OF USE OF WATER TO BE RECAPTURED:

Margarita well _____

LOCATION OF RECAPTURE FACILITIES (IF DIFFERENT FROM REGULAR PRODUCTION FACILITIES):

WATER QUALITY AND WATER LEVELS

Are the Parties aware of any water quality issues that exist in the area? Yes No

If yes, please explain:

What are the existing water levels in the areas that are likely to be affected?

MATERIAL PHYSICAL INJURY

Are any of the recapture wells located within Management Zone 1? Yes No

Is the Applicant aware of any potential Material Physical Injury to a party to the Judgment or the Basin that may be caused by the action covered by the application? Yes No

If yes, what are the proposed mitigation measures, if any, that might reasonably be imposed to ensure that the action does not result in Material Physical Injury to a party to the Judgment or the Basin?

SAID TRANSFER SHALL BE CONDITIONED UPON:

- (1) Transferee shall exercise said right on behalf of Transferor under the terms of the Judgment, the Peace Agreement, the Peace II Agreement, and the Management Zone 1 Subsidence Management Plan for the period described above. The first water produced in any year shall be that produced pursuant to carry-over rights defined in the Judgment. After production of its carry-over rights, if any, the next (or first if no carry-over rights) water produced by Transferee from the Chino Basin shall be that produced hereunder.
- (2) Transferee shall put all waters utilized pursuant to said Transfer to reasonable beneficial use.
- (3) Transferee shall pay all Watermaster assessments on account of the water production hereby Transferred.
- (4) Any Transferee not already a party must Intervene and become a party to the Judgment.

ADDITIONAL INFORMATION ATTACHED

Yes No



 Seller / Transferor Representative Signature

Michael Blay, City Manager

 Seller / Transferor Representative Name (Printed)

David Schickling

 Buyer / Transferee Representative Signature

Digitally signed by David Schickling
 Date: 2026.06.01 15:22:22 -07'00'

David Schickling, VP Ops

 Buyer / Transferee Representative Name (Printed)


 Eva Tang, Senior VP

TO BE COMPLETED BY WATERMASTER STAFF:

DATE OF WATERMASTER NOTICE: July 2, 2026

DATE OF APPROVAL FROM APPROPRIATIVE POOL: _____

DATE OF APPROVAL FROM NON-AGRICULTURAL POOL: _____

DATE OF APPROVAL FROM AGRICULTURAL POOL: _____

HEARING DATE, IF ANY: _____

DATE OF ADVISORY COMMITTEE APPROVAL: _____

DATE OF BOARD APPROVAL: _____



CHINO BASIN WATERMASTER

NOTICE

OF

APPLICATION(S)

RECEIVED FOR

TRANSFER OF WATER

Date of Notice:

July 2, 2026

This notice is to advise interested persons that the attached application(s) will come before the Watermaster Board on or after 30 days from the date of this notice.

APPLICATION FOR TRANSFER OF WATER

The attached staff report will be included in the meeting package at the time the transfer begins the Watermaster process.

NOTICE OF APPLICATION(S) RECEIVED

Date of Application: **June 1, 2026**

Date of this notice: **July 02, 2026**

Please take notice that the following Application has been received by Watermaster:

- Notice of Sale or Transfer – The purchase of 620 acre-feet of water from City of Upland by Golden State Water Company. This purchase is made from City of Upland’s Annual Production Right.

This **Application** will first be considered by each of the respective pool committees on the following dates:

| | |
|------------------------|---------------|
| Appropriative Pool: | July 09, 2026 |
| Non-Agricultural Pool: | July 09, 2026 |
| Agricultural Pool: | July 09, 2026 |

This **Application** will be scheduled for consideration by the Advisory Committee **no earlier than thirty days from the date of this notice and a minimum of twenty-one calendar days** after the last pool committee reviews it.

After consideration by the Advisory Committee, the **Application** will be considered by the Board.

Unless the **Application** is amended, as **Contests** must be submitted a minimum of fourteen (14) days prior to the Advisory Committee’s consideration of an **Application**, parties to the Judgment may file **Contests** to the **Application** with Watermaster **within seven calendar days** of when the last pool committee considers it. Any **Contest** must be in writing and state the basis of the **Contest**.

Watermaster address:

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

Tel: (909) 484-3888
Web: www.cbwm.org
watertransactions@cbwm.org



CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, CA 91730
909.484.3888 www.cbwm.org

STAFF REPORT

DATE: July 09, 2026
TO: AP/ONAP/OAP Committee Members
SUBJECT: Application: Water Transaction – 4 AF from NCL Co, LLC to San Gabriel Band of Mission Indians (Consent Calendar Item I.H.)

Issue: To consider the Consolidated Water Transfer Forms for the sale and transfer of 4 acre-feet of water from NCL CO, LLC to San Gabriel Band of Mission Indians. This purchase is made from NCL Co, LLC's Local Excess Carry Over Storage Account. [Within WM Duties and Powers]

Recommendation: Provide advice and assistance to the Advisory Committee on the proposed transaction.

Financial Impact: None.

ACTIONS:

Appropriative Pool – July 09, 2026 [Recommended]: Advice and assistance.
Non-Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Advisory Committee – August 20, 2026 [Recommended]: Advice and assistance.
Watermaster Board – August 27, 2026 [Recommended]: Approval.

BACKGROUND

On July 13, 2000, the Court approved the Peace Agreement, the Implementation Plan, and the goals and objectives identified in the OBMP Phase I Report and ordered Watermaster to proceed in a manner consistent with the Peace Agreement. Under the Peace Agreement, Watermaster approval is required for applications to store, recapture, recharge, or transfer water, as well as for applications for credits or reimbursements, and storage and recovery programs.

Where this is no Material Physical Injury, Watermaster must approve the transaction. Where the request for Watermaster approval is submitted by a Party to the Judgment, there is a rebuttable presumption, under the Peace Agreement, that most of the transactions do not result in Material Physical Injury to a Party of the Judgment or the Basin (Storage and Recovery Programs do not have this presumption).

The date of this application is January 11, 2026, and the purchaser, the San Gabriel Band of Mission Indians Led by the Gabrieleno Tongva Tribal Council, successfully intervened into the Appropriative Pool Committee under Chino Basin Judgment on June 12, 2026. As such, the notice of the transaction along with the materials submitted by the requestors was transmitted to stakeholders electronically on July 02, 2026.

DISCUSSION

Beyond confirmation of the source of the water to be transferred (Annual Production Right, Supplemental Water, or Excess Carryover), Watermaster will evaluate the eventual disposition of the transferred water (e.g. production, storage, etc.) at the end of the production year and account for the same consistent with the Watermaster Guidance Documents.

Water transactions occur each year and are included as production by the respective entity (if produced) in any relevant analysis conducted by West Yost pursuant to the Peace Agreement and the Rules & Regulations. There is no indication that additional analysis regarding this transaction is necessary at this time. As part of the OBMP Implementation Plan, measurement of groundwater levels and ground level changes are ongoing, and based on current data, there is no indication that the proposed water transaction will cause Material Physical Injury to a Party of the Judgment, or to the Basin.

Pursuant to the Rules & Regulations, “The Application shall not be considered by the Advisory Committee until at least twenty-one (21) days after the last of the three Pool Committee meetings to consider the matter.” Therefore, this application will be presented to the Advisory Committee and Watermaster Board at their August 2026 meetings respectively.

ATTACHMENTS

1. Consolidated Form 3, 4, & 5
2. Notice Forms

**CONSOLIDATED WATER TRANSFER FORMS:
 FORM 3: APPLICATION FOR SALE OR TRANSFER OF RIGHT TO PRODUCE WATER FROM STORAGE
 FORM 4: APPLICATION OR AMENDMENT TO APPLICATION TO RECAPTURE WATER IN STORAGE
 FORM 5: APPLICATION TO TRANSFER ANNUAL PRODUCTION RIGHT OR SAFE YIELD**

FISCAL YEAR 2025 - 2026

DATE REQUESTED: 1/11/2026

AMOUNT REQUESTED: 4 Acre-Feet

| | |
|--|--|
| <p>TRANSFER FROM (SELLER / TRANSFEROR):</p> <p><u>NCL Co, LLC</u> Name of Party</p> <p><u>405 North Indian Hill Boulevard</u> Street Address</p> <p><u>Claremont</u> <u>CA</u> <u>91711</u> City State Zip Code</p> <p><u>(909) 621-1266</u> Telephone</p> <p>_____ Facsimile</p> | <p>TRANSFER TO (BUYER / TRANSFEREE):</p> <p><u>San Gabriel Band of Mission Indians Led by the Gabrie</u> Name of Party</p> <p><u>203 E Mission Road</u> Street Address</p> <p><u>San Gabriel</u> <u>CA</u> <u>91776</u> City State Zip Code</p> <p><u>(626) 483-3564</u> Telephone</p> <p>_____ Facsimile</p> |
|--|--|

Have any other transfers been approved by Watermaster between these parties covering the same fiscal year? Yes No

- PURPOSE OF TRANSFER:**
- Pump when other sources of supply are curtailed
 - Pump to meet current or future demand over and above production right
 - Pump as necessary to stabilize future assessment amounts
 - Other, explain _____

- WATER IS TO BE TRANSFERRED FROM:**
- Annual Production Right (Appropriative Pool) or Operating Safe Yield (Non-Agricultural Pool)
 - Storage
 - Annual Production Right / Operating Safe Yield first, then any additional from Storage
 - Other, explain Local Excess Carry Over

- WATER IS TO BE TRANSFERRED TO:**
- Annual Production Right / Operating Safe Yield (common)
 - Storage (rare)
 - Other, explain Local Excess Carry Over

IS THE 85/15 RULE EXPECTED TO APPLY? (If yes, all answers below must be "yes.") Yes No

Is the Buyer an 85/15 Party? Yes No

Is the purpose of the transfer to meet a current demand over and above production right? Yes No

Is the water being placed into the Buyer's Annual Account? Yes No

IF WATER IS TO BE TRANSFERRED FROM STORAGE:

Projected Rate of Recapture _____ Projected Duration of Recapture _____

METHOD OF RECAPTURE (e.g. pumping, exchange, etc.):

Exchange

PLACE OF USE OF WATER TO BE RECAPTURED:

LOCATION OF RECAPTURE FACILITIES (IF DIFFERENT FROM REGULAR PRODUCTION FACILITIES):

WATER QUALITY AND WATER LEVELS

Are the Parties aware of any water quality issues that exist in the area? Yes No

If yes, please explain:

What are the existing water levels in the areas that are likely to be affected?

MATERIAL PHYSICAL INJURY

Are any of the recapture wells located within Management Zone 1? Yes No

Is the Applicant aware of any potential Material Physical Injury to a party to the Judgment or the Basin that may be caused by the action covered by the application? Yes No

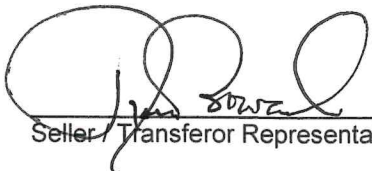
If yes, what are the proposed mitigation measures, if any, that might reasonably be imposed to ensure that the action does not result in Material Physical Injury to a party to the Judgment or the Basin?

SAID TRANSFER SHALL BE CONDITIONED UPON:

- (1) Transferee shall exercise said right on behalf of Transferor under the terms of the Judgment, the Peace Agreement, the Peace II Agreement, and the Management Zone 1 Subsidence Management Plan for the period described above. The first water produced in any year shall be that produced pursuant to carry-over rights defined in the Judgment. After production of its carry-over rights, if any, the next (or first if no carry-over rights) water produced by Transferee from the Chino Basin shall be that produced hereunder.
- (2) Transferee shall put all waters utilized pursuant to said Transfer to reasonable beneficial use.
- (3) Transferee shall pay all Watermaster assessments on account of the water production hereby Transferred.
- (4) Any Transferee not already a party must Intervene and become a party to the Judgment.

ADDITIONAL INFORMATION ATTACHED

Yes No



Seller / Transferor Representative Signature

Robert Bowcock

Seller / Transferor Representative Name (Printed)



Buyer / Transferee Representative Signature

Robert Bowcock

Buyer / Transferee Representative Name (Printed)

TO BE COMPLETED BY WATERMASTER STAFF:

DATE OF WATERMASTER NOTICE: July 2, 2026

DATE OF APPROVAL FROM APPROPRIATIVE POOL: _____

DATE OF APPROVAL FROM NON-AGRICULTURAL POOL: _____

DATE OF APPROVAL FROM AGRICULTURAL POOL: _____

HEARING DATE, IF ANY: _____

DATE OF ADVISORY COMMITTEE APPROVAL: _____

DATE OF BOARD APPROVAL: _____



CHINO BASIN WATERMASTER

NOTICE

OF

APPLICATION(S)

RECEIVED FOR

TRANSFER OF WATER

Date of Notice:

July 2, 2026

This notice is to advise interested persons that the attached application(s) will come before the Watermaster Board on or after 30 days from the date of this notice.

APPLICATION FOR TRANSFER OF WATER

The attached staff report will be included in the meeting package at the time the transfer begins the Watermaster process.

NOTICE OF APPLICATION(S) RECEIVED

Date of Application: **January 11, 2026**

Date of this notice: **July 02, 2026**

Please take notice that the following Application has been received by Watermaster:

- Notice of Sale or Transfer – The purchase of 4.0 acre-feet of water from NCL Co, LLC by San Gabriel Band of Mission Indians. This purchase is made from NCL Co, LLC’s Local Excess Carryover storage account.

This **Application** will first be considered by each of the respective pool committees on the following dates:

| | |
|------------------------|---------------|
| Appropriative Pool: | July 09, 2026 |
| Non-Agricultural Pool: | July 09, 2026 |
| Agricultural Pool: | July 09, 2026 |

This **Application** will be scheduled for consideration by the Advisory Committee **no earlier than thirty days from the date of this notice and a minimum of twenty-one calendar days** after the last pool committee reviews it.

After consideration by the Advisory Committee, the **Application** will be considered by the Board.

Unless the **Application** is amended, as **Contests** must be submitted a minimum of fourteen (14) days prior to the Advisory Committee’s consideration of an **Application**, parties to the Judgment may file **Contests** to the **Application** with Watermaster **within seven calendar days** of when the last pool committee considers it. Any **Contest** must be in writing and state the basis of the **Contest**.

Watermaster address:

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

Tel: (909) 484-3888
Web: www.cbwm.org
watertransactions@cbwm.org



CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, CA 91730
909.484.3888 www.cbwm.org

STAFF REPORT

DATE: July 09, 2026
TO: AP/ONAP/OAP Committee Members
SUBJECT: Application: Water Transaction – 2,658.11 AF from Jurupa Community Services District to Fontana Water Company (Consent Calendar Item I.I.)

Issue: To consider the Consolidated Water Transfer Forms for the sale and transfer of 2,658.11 AF from Jurupa Community Services District to Fontana Water Company. This purchase is made from Jurupa Community Services District's Local Storage Account. [Within WM Duties and Powers]

Recommendation: Provide advice and assistance to the Advisory Committee on the proposed transaction.

Financial Impact: None.

ACTIONS:

Appropriative Pool – July 09, 2026 [Recommended]: Advice and assistance.
Non-Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Agricultural Pool – July 09, 2026 [Recommended]: Advice and assistance.
Advisory Committee – August 20, 2026 [Recommended]: Advice and assistance.
Watermaster Board – August 27, 2026 [Recommended]: Approval.

BACKGROUND

On July 13, 2000, the Court approved the Peace Agreement, the Implementation Plan, and the goals and objectives identified in the OBMP Phase I Report and ordered Watermaster to proceed in a manner consistent with the Peace Agreement. Under the Peace Agreement, Watermaster approval is required for applications to store, recapture, recharge, or transfer water, as well as for applications for credits or reimbursements, and storage and recovery programs.

Where this is no Material Physical Injury, Watermaster must approve the transaction. Where the request for Watermaster approval is submitted by a Party to the Judgment, there is a rebuttable presumption, under the Peace Agreement, that most of the transactions do not result in Material Physical Injury to a Party of the Judgment or the Basin (Storage and Recovery Programs do not have this presumption).

The date of this application is June 30, 2026, and notice of the transaction along with the materials submitted by the requestors was transmitted to stakeholders electronically on July 02, 2026.

DISCUSSION

Beyond confirmation of the source of the water to be transferred (Annual Production Right, Supplemental Water, or Excess Carryover), Watermaster will evaluate the eventual disposition of the transferred water (e.g. production, storage, etc.) at the end of the production year and account for the same consistent with the Watermaster Guidance Documents.

Water transactions occur each year and are included as production by the respective entity (if produced) in any relevant analysis conducted by West Yost pursuant to the Peace Agreement and the Rules & Regulations. There is no indication that additional analysis regarding this transaction is necessary at this time. As part of the OBMP Implementation Plan, measurement of groundwater levels and ground level changes are ongoing, and based on current data, there is no indication that the proposed water transaction will cause Material Physical Injury to a Party of the Judgment, or to the Basin.

Pursuant to the Rules & Regulations, “The Application shall not be considered by the Advisory Committee until at least twenty-one (21) days after the last of the three Pool Committee meetings to consider the matter.” Therefore, this application will be presented to the Advisory Committee and Watermaster Board at their August 2026 meetings respectively.

ATTACHMENTS

1. Consolidated Form 3, 4, & 5
2. Notice Forms

**CONSOLIDATED WATER TRANSFER FORMS:
 FORM 3: APPLICATION FOR SALE OR TRANSFER OF RIGHT TO PRODUCE WATER FROM STORAGE
 FORM 4: APPLICATION OR AMENDMENT TO APPLICATION TO RECAPTURE WATER IN STORAGE
 FORM 5: APPLICATION TO TRANSFER ANNUAL PRODUCTION RIGHT OR SAFE YIELD**

FISCAL YEAR 2025 - 2026

DATE REQUESTED: June 30, 2026

AMOUNT REQUESTED: 2658.11 Acre-Feet

| | |
|---|--|
| <p>TRANSFER FROM (SELLER / TRANSFEROR):</p> <p><u>Jurupa Community Services District</u> Name of Party</p> <p><u>11201 Harrel St</u> Street Address</p> <p><u>Mira Loma</u> <u>CA</u> <u>91737</u> City State Zip Code</p> <p><u>951-685-7434</u> Telephone</p> <p><u>951-727-3503</u> Facsimile</p> | <p>TRANSFER TO (BUYER / TRANSFEREE):</p> <p><u>Fontana Water Company</u> Name of Party</p> <p><u>15966 Arrow Route</u> Street Address</p> <p><u>Fontana</u> <u>CA.</u> <u>92335</u> City State Zip Code</p> <p><u>(909) 822-2201</u> Telephone</p> <p><u>(909) 823-5046</u> Facsimile</p> |
|---|--|

Have any other transfers been approved by Watermaster between these parties covering the same fiscal year? Yes No

PURPOSE OF TRANSFER:

- Pump when other sources of supply are curtailed
- Pump to meet current or future demand over and above production right
- Pump as necessary to stabilize future assessment amounts
- Other, explain _____

WATER IS TO BE TRANSFERRED FROM:

- Annual Production Right (Appropriative Pool) or Operating Safe Yield (Non-Agricultural Pool)
- Storage
- Annual Production Right / Operating Safe Yield first, then any additional from Storage
- Other, explain _____

WATER IS TO BE TRANSFERRED TO:

- Annual Production Right / Operating Safe Yield (common)
- Storage (rare)
- Other, explain _____

IS THE 85/15 RULE EXPECTED TO APPLY? (If yes, all answers below must be "yes.") Yes No

Is the Buyer an 85/15 Party? Yes No

Is the purpose of the transfer to meet a current demand over and above production right? Yes No

Is the water being placed into the Buyer's Annual Account? Yes No

IF WATER IS TO BE TRANSFERRED FROM STORAGE:

Varies 2025-2026
 Projected Rate of Recapture Projected Duration of Recapture

METHOD OF RECAPTURE (e.g. pumping, exchange, etc.):

Pumping

PLACE OF USE OF WATER TO BE RECAPTURED:

Chino Basin Management Zone 3

LOCATION OF RECAPTURE FACILITIES (IF DIFFERENT FROM REGULAR PRODUCTION FACILITIES):

N/A

WATER QUALITY AND WATER LEVELS

Are the Parties aware of any water quality issues that exist in the area? Yes No

If yes, please explain:

In 2026, perchlorate and nitrate levels ranged as high as 6.7 ppb and 9.6 ppm respectively.

What are the existing water levels in the areas that are likely to be affected?

Static Water Levels range from 290 feet (bgs) to 677 feet (bgs) as of May 2026.

MATERIAL PHYSICAL INJURY

Are any of the recapture wells located within Management Zone 1? Yes No

Is the Applicant aware of any potential Material Physical Injury to a party to the Judgment or the Basin that may be caused by the action covered by the application? Yes No

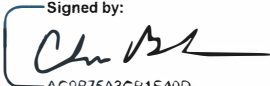
If yes, what are the proposed mitigation measures, if any, that might reasonably be imposed to ensure that the action does not result in Material Physical Injury to a party to the Judgment or the Basin?

SAID TRANSFER SHALL BE CONDITIONED UPON:

- (1) Transferee shall exercise said right on behalf of Transferor under the terms of the Judgment, the Peace Agreement, the Peace II Agreement, and the Management Zone 1 Subsidence Management Plan for the period described above. The first water produced in any year shall be that produced pursuant to carry-over rights defined in the Judgment. After production of its carry-over rights, if any, the next (or first if no carry-over rights) water produced by Transferee from the Chino Basin shall be that produced hereunder.
- (2) Transferee shall put all waters utilized pursuant to said Transfer to reasonable beneficial use.
- (3) Transferee shall pay all Watermaster assessments on account of the water production hereby Transferred.
- (4) Any Transferee not already a party must Intervene and become a party to the Judgment.

ADDITIONAL INFORMATION ATTACHED

Yes No

Signed by:

AC9B75A3CB1E40D

Seller / Transferor Representative Signature

Chris Berch - General Manager
Seller / Transferor Representative Name (Printed)



Buyer / Transferee Representative Signature

Martin Zvirbulis, Vice President - Water Resources
Buyer / Transferee Representative Name (Printed)

TO BE COMPLETED BY WATERMASTER STAFF:

DATE OF WATERMASTER NOTICE: July 2, 2026

DATE OF APPROVAL FROM APPROPRIATIVE POOL: _____

DATE OF APPROVAL FROM NON-AGRICULTURAL POOL: _____

DATE OF APPROVAL FROM AGRICULTURAL POOL: _____

HEARING DATE, IF ANY: _____

DATE OF ADVISORY COMMITTEE APPROVAL: _____

DATE OF BOARD APPROVAL: _____



CHINO BASIN WATERMASTER

NOTICE

OF

APPLICATION(S)

RECEIVED FOR

TRANSFER OF WATER

Date of Notice:

July 2, 2026

This notice is to advise interested persons that the attached application(s) will come before the Watermaster Board on or after 30 days from the date of this notice.

APPLICATION FOR TRANSFER OF WATER

The attached staff report will be included in the meeting package at the time the transfer begins the Watermaster process.

NOTICE OF APPLICATION(S) RECEIVED

Date of Application: **June 30, 2026**

Date of this notice: **July 02, 2026**

Please take notice that the following Application has been received by Watermaster:

- Notice of Sale or Transfer – The transfer of 2658.11 acre-feet of water from Jurupa Community Services District to Fontana Water Company. This transfer is made from Jurupa Community Services District’s Local Storage Account.

This **Application** will first be considered by each of the respective pool committees on the following dates:

| | |
|------------------------|---------------|
| Appropriative Pool: | July 09, 2026 |
| Non-Agricultural Pool: | July 09, 2026 |
| Agricultural Pool: | July 09, 2026 |

This **Application** will be scheduled for consideration by the Advisory Committee **no earlier than thirty days from the date of this notice and a minimum of twenty-one calendar days** after the last pool committee reviews it.

After consideration by the Advisory Committee, the **Application** will be considered by the Board.

Unless the **Application** is amended, as **Contests** must be submitted a minimum of fourteen (14) days prior to the Advisory Committee’s consideration of an **Application**, parties to the Judgment may file **Contests** to the **Application** with Watermaster **within seven calendar days** of when the last pool committee considers it. Any **Contest** must be in writing and state the basis of the **Contest**.

Watermaster address:

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

Tel: (909) 484-3888
Web: www.cbwm.org
watertransactions@cbwm.org



CHINO BASIN WATERMASTER

9641 San Bernardino Road, Rancho Cucamonga, CA 91730
909.484.3888 www.cbwm.org

STAFF REPORT

DATE: July 09, 2026
TO: AP/ONAP/OAP Committee Members
SUBJECT: 2025 Safe Yield Reevaluation (Business Item II.A.)

Issue: The Chino Basin Watermaster Engineer has completed the 2025 evaluation of the Basin's Safe Yield, and Watermaster must determine next steps based on the evaluation. [Within WM Duties and Powers]

Recommendation: Provide advice and assistance to Watermaster regarding the reset of the Safe Yield in accordance with the 2025 Safe Yield Reevaluation Final Report.

Financial Impact: None

ACTIONS:

Appropriative Pool – June 11, 2026 [Final]: Provide advice and assistance.
Non-Agricultural Pool – June 11, 2026 [Final]: Provide advice and assistance.
Agricultural Pool – June 11, 2026 [Final]: Provide advice and assistance.
Advisory Committee – June 18, 2026 [Final]: Provide advice and assistance.
Watermaster Board – June 25, 2026 [Final]: Unanimously adopted the SY Report as final.
Appropriative Pool – July 09, 2026 [Recommendation]: Provide advice and assistance.
Non-Agricultural Pool – July 09, 2026 [Recommendation]: Provide advice and assistance.
Agricultural Pool – July 09, 2026 [Recommendation I]: Provide advice and assistance.
Advisory Committee – July 16, 2026 [Recommendation]: Provide advice and assistance.
Watermaster Board – July 23, 2026 [Recommendation]: Approve.

BACKGROUND

The Court-ordered update to the Chino Basin groundwater model is complete. The technical analysis in support of the Draft 2025 Safe Yield Reevaluation Report along with independent Peer Review recommendations are also complete.

The Board, on September 25, 2025, received an informational presentation by the independent Peer Review firm, S.S. Papadopulos (SSP&A) of the findings and recommendations. After the presentation was given, the Draft 2025 Safe Yield Reevaluation Report including the Peer Review report was distributed to parties for feedback. Watermaster received written feedback from individual parties, and from the Appropriative Pool. The feedback was discussed at the December 2025 Pool Committee meetings which resulted in the advice and assistance described below.

In October 2025, SSP&A provided its official recommendation in Appendix A, *the Supplemental Hydrogeologic Information*, and the Executive Summary is provided as Attachment 1. Included in Appendix A, on October 23, 2025, West Yost provided its response on Appendix E-1, *Response to Recommendations from SSP&A Peer Review Report* (Attachment 2). On December 5, 2025, Mr. Jim Van de Water and Mr. Thomas Harder of Thomas Harder & Company (Appropriative Pool technical consultant) provided a letter in response to the Peer Review recommendation (Attachment 3).

At their December 11, 2025, meetings, the three Pool Committees provided their advice and assistance on the draft Safe Yield Reevaluation Report and Peer Review Recommendations as follows:

- The Appropriative Pool made a motion out of Confidential Session, directing their technical consultant, Mr. Thomas Harder of Thomas Harder & Company, to work with West Yost to develop a recommended scope of work to implement the agreed-upon recommendations to improve identified elements of the Chino Valley Model. The Pool further indicated that they do not believe the technical analysis work for the reevaluation of the safe yield to be complete.
- The Overlying (Non-Agricultural) Pool expressed support for the Appropriative Pool's position, though the Pool expressly stated that they do not intend to fund any related additional technical work.
- The Overlying (Agricultural) Pool was given an update from staff as to the other Pool Committees' positions. They further discussed the item in Confidential Session and did not provide any reportable action.

In 2026, a scope of work was developed and budget amendment approved by the Advisory Committee and Watermaster Board to implement refinements to the 2025 Chino Valley Model. The refinements were completed, peer reviewed, and documented in the final report. Section 7.3.2 of the report details the results of the technical analysis and a Tentative Safe Yield of 121,200 AF per year for the ten-year period 2021-2030.

DISCUSSION

To complete the Safe Yield Reevaluation effort, the Final 2025 Safe Yield Reevaluation Report was presented to the Pool and Advisory Committees in June 2026 for review and final comments. Watermaster received comments via correspondence from the Appropriative Pool, State of California, and the City of Ontario. Watermaster's responses to the comment letter and emails received have been prepared by West Yost and were presented in the June 2026 staff report as an attachment.

The Watermaster Board was asked to consider whether the 2025 Safe Yield Reevaluation Report's evaluation of the Safe Yield of the Basin for the period July 1, 2020 through June 30, 2030, in accordance with the 2022 Safe Yield reset methodology, was complete. At its regular June 25, 2026 regular meeting, the Watermaster Board unanimously accepted the 2025 Safe Yield Reevaluation Report as complete and final in furtherance of the 2022 Court Order including the 2022 Safe Yield Methodology.

Following the Watermaster Board action on the final report last month, the Pool Committees are asked to provide advice and assistance to the Board regarding a potential Board motion requesting that the Court amend the Restated Judgment to set the Basin's Safe Yield at 121,200 AF per year for the period of July 1, 2025 through June 30, 2030. As identified in the final report, following the completion of the Reevaluation, in FY 2026/27, Watermaster will initiate the process to update the Storage Management Plan to develop criteria for withdrawing water from storage accounts credited prior to and after July 1, 2025. These criteria will include procedures to evaluate withdrawals to prevent Material Physical Injury to the Basin and Chino Basin Parties.

ATTACHMENTS

1. 2022 Safe Yield Methodology Court Order
2. 2020 Safe Yield Reset Court Order
3. 2019 Amendments to Restated Judgment, Peace Agreement, Peace II Agreement, and Pooling Plans Court Order
4. 2017 Safe Yield Reset Court Order

FEE EXEMPT

1 SCOTT S. SLATER (State Bar No. 117317)
sslater@bhfs.com
 2 BRADLEY J. HERREMA (State Bar No. 228976)
bherrema@bhfs.com
 3 LAURA K. YRACEBURU (State Bar No. 333085)
lyraceburu@bhfs.com
 4 BROWNSTEIN HYATT FARBER SCHRECK, LLP
 1021 Anacapa Street, 2nd Floor
 5 Santa Barbara, CA 93101-2102
 Telephone: 805.963.7000
 6 Facsimile: 805.965.4333

7 Attorneys for
8 CHINO BASIN WATERMASTER

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA

10 FOR THE COUNTY OF SAN BERNARDINO

11 CHINO BASIN MUNICIPAL WATER
12 DISTRICT,

13 Plaintiff,

14 v.

15 CITY OF CHINO, ET AL.,

16 Defendants.

Case No. RCVRS51010

[Assigned for All Purposes to the
Honorable Gilbert G. Ochoa]

**NOTICE OF RULING AND ENTRY OF
ORDERS**

BROWNSTEIN HYATT FARBER SCHRECK, LLP
1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101-2711

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TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, on December 16, 2022, in Department S24 of the above-entitled Court, Chino Basin Watermaster’s Motion for Court Approval of Update to Watermaster Safe Yield Reset Methodology (“Motion”) came on for hearing in the above-captioned matter. The Honorable Gilbert G. Ochoa, having considered the briefing submitted and all supporting documents filed concurrently therewith, and having heard any oral argument from counsel, granted Chino Basin Watermaster’s Notice of Motion and Motion, adopting the Court’s tentative ruling as a final ruling, a copy of which is attached to this Notice as **Exhibit A**, and entering its Order Granting Chino Basin Watermaster’s Motion Regarding the Update to Watermaster’s Safe Yield Reset Methodology, a copy of which is attached to this Notice as **Exhibit B**.

The Court also entered an Order Granting Request for Court to Receive and File Watermaster Semi-Annual OBMP Status Report 2022-1, a copy of which is attached to this Notice as **Exhibit C**.

Dated: December 19, 2022

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

By: 
SCOTT S. SLATER
BRADLEY J. HERREMA
LAURA K. YRACEBURU
Attorneys for
CHINO BASIN WATERMASTER

25022278

Exhibit A

TENTATIVE RULINGS FOR December 16, 2022
Department S24 - Judge Gilbert G. Ochoa

This court follows California Rules of Court, rule 3.1308(a) (1) for tentative rulings. (See San Bernardino Superior Court Local Emergency Rule 8.) Tentative rulings for each law & motion will be posted on the internet (<https://www.sb-court.org>) by 3:00 p.m. on the court day immediately before the hearing.

If you do not have internet access or if you experience difficulty with the posted tentative ruling, you may obtain the tentative ruling by calling the Administrative Assistant. You may appear in person at the hearing but personal appearance is not required and remote appearance by Court Call is preferred during the Pandemic. (See www.sbcourt.org/general-information/remote-access)

If you wish to submit on the ruling, call the Court and your appearance is not necessary. If both sides do not appear, the tentative will simply become the ruling. If any party submits on the tentative, the Court will not alter the tentative and it will become the ruling. If one party wants to argue, Court will hear argument but will not change the tentative. If the Court does decide to modify tentative after argument, then a further hearing for oral argument will be reset for both parties to be heard at the same time by the Court.

UNLESS OTHERWISE NOTED, THE PREVAILING PARTY IS TO GIVE NOTICE OF THE RULING.

RCVRS51010
Chino Basin Municipal Water District vs. City of Chino

Motion-For Court Approval of Update

Movant- Chino Basin Watermaster

Respondent- All other parties

Ruling- The Motion is granted. No opposition is presented.

Movant to give Notice and Order.

Dated- **DEC 16 2022**



Judge **GILBERT G. OCHOA**

Page | 1


FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT
DEC 16 2022
BY 
DEPUTY

Exhibit B

FEE EXEMPT

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

DEC 16 2022

BY Jennifer Wildman
DEPUTY

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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.,

Defendants.

Case No. RCV RS 51010

[Assigned for All Purposes to the Honorable Gilbert G. Ochoa]

~~PROPOSED~~ ORDER GRANTING CHINO BASIN WATERMASTER'S MOTION REGARDING THE UPDATE TO WATERMASTER'S SAFE YIELD RESET METHODOLOGY

Date: December 16, 2022
Time: 9:00 a.m.
Dept: S24

[Filed concurrently with Motion for Court Approval of Update to Watermaster Safe Yield Reset Methodology; Declarations of Garrett Rapp and Peter Kavounas in Support thereof]

On December 16, 2022, Chino Basin Watermaster's ("Watermaster") Motion regarding the Update to Watermaster Safe Yield Reset Methodology ("2022 SYRMU") came on regularly for hearing in the above-captioned matter. Having read and considered the papers and heard the arguments of counsel, the Motion is **GRANTED**. It is **HEREBY ORDERED** that:

1. Watermaster has complied with the provisions of this Court's April 28, 2017 Orders for Watermaster's Motion Regarding the 2015 Safe Yield Reset Agreement, Watermaster's Rules and Regulations, and the Optimum Basin Management

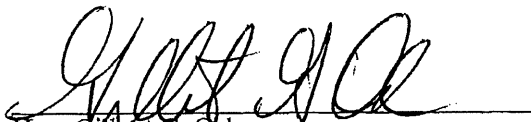
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Program Implementation Plan to revise the Safe Yield reset methodology

2. The 2022 SYRMU, as described in the Technical Memorandum attached hereto as Attachment "A", sets forth an approach to future Safe Yield determinations that is consistent with the Judgment and the Court's prior orders. The 2022 SYRMU incorporates advances in best management practices and hydrologic science since the Court's April 28, 2017 Orders, was developed with the recommendation and advice of the Pools and Advisory Committee, and has not been opposed by any party.
3. Watermaster shall proceed to evaluate the Safe Yield as set forth in the 2022 SYRMU unless and until this Court approves an updated methodology.

IT IS SO ORDERED.

Dated: DEC 16 2022, 2022


Hon. Gilbert G. Ochoa
Judge of the Superior Court

24777289.5

ATTACHMENT A



23692 Birtcher Drive
Lake Forest CA 92630

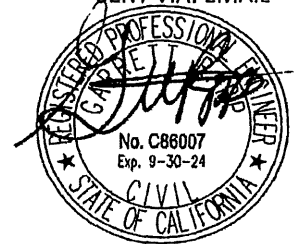
949.420.3030 phone
530.756.5991 fax
westyost.com

RESET TECHNICAL MEMORANDUM

DATE: October 6, 2022
TO: Peter Kavounas, Chino Basin Watermaster
FROM: Garrett Rapp, PE, RCE #86007
Andy Malone, PG
SUBJECT: 2022 Methodology to Reset the Safe Yield of the Chino Basin

Project No.: 941-80-22-32

SENT VIA: EMAIL



2022 UPDATED SAFE YIELD RESET METHODOLOGY

This technical memorandum summarizes the methodology¹ to calculate the Safe Yield of the Chino Basin for the 2025 Safe Yield Reevaluation and subsequent Safe Yield evaluations. The methodology: (i) is consistent with professional custom, standard, and practice; (ii) incorporates current best management practices and hydrologic science; and (iii) is consistent with the definition of Safe Yield in the Judgment and the Physical Solution.

1. Use data collected since the implementation of the OBMP to re-calibrate the Watermaster’s groundwater-flow model. The re-calibration period should be long enough to include wet and dry periods relative to the long-term historical precipitation record.
2. Conduct an uncertainty analysis of the re-calibrated groundwater-flow model to identify a plausible range of calibrated models.
3. Describe current and projected future cultural conditions, including but not limited to land use and water-management practices, such as: pumping, managed recharge, managed groundwater storage, impervious land cover, water recycling, and water conservation practices. Identify a possible range of projected future cultural conditions.
4. Using the most current research on future climate and hydrology, identify a possible range of projected future climatic conditions in the Santa Ana River watershed.
5. Using the results of [3.] and [4.] above, prepare an ensemble of multiple projection scenarios of combinations of future climate/hydrology and cultural conditions (herein called the “Projection Ensemble”). Assign likelihoods to each scenario in the Projection Ensemble.
6. Simulate the range for the potential future water budget and groundwater conditions in the Chino Basin over no less than a 50-year future period. This is accomplished by using:
 - i. The range of calibrated models developed in [2.], and
 - ii. The Projection Ensemble developed in [5.] as model input data.

¹ A detailed description of the methodology summarized here can be found in the technical memorandum titled “2022 Update of the Chino Basin Safe Yield Reset Methodology,” dated October 6, 2022.

7. Using the results of [6.] above, characterize the range in the model results for:
 - i. Groundwater conditions, including: groundwater elevations, groundwater in storage, and groundwater flow directions, and
 - ii. The water budget, including: basin inflows, outflows, change in storage, and net recharge.
8. Using the set of net recharge results from [7.ii], determine a tentative Safe Yield as the likelihood-weighted average net recharge over the 10-year prospective period for which the Safe Yield is being redetermined (Tentative Safe Yield).
9. Evaluate whether the groundwater production at the Tentative Safe Yield estimated in [8] above will cause or threaten to cause "undesirable results" or "Material Physical Injury." If groundwater production at Tentative Safe Yield will cause or threaten to cause "undesirable results" or "Material Physical Injury," then Watermaster will identify and implement prudent measures necessary to mitigate "undesirable results" or "Material Physical Injury," set the value of Safe Yield to ensure there is no "undesirable results" or "Material Physical Injury," or implement a combination of mitigation measures and a changed Safe Yield.

Exhibit C

ORIGINAL

FEE EXEMPT

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

DEC 16 2022

Jennifer Medina

DEPUTY

FAXED

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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 RS 51010

[Assigned for All Purposes to the Honorable Gilbert G. Ochoa]

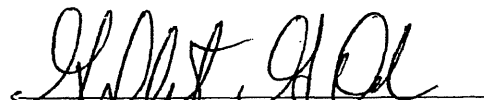
~~[PROPOSED]~~ ORDER GRANTING REQUEST FOR COURT TO RECEIVE AND FILE WATERMASTER SEMI-ANNUAL OBMP STATUS REPORT 2022-1

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~~PROPOSED~~ ORDER

On December 16, 2022, in Department S24 of the above-entitled Court, the Chino Basin Watermaster's ("Watermaster") Request for Court to Receive and File Watermaster Semi-Annual OBMP Status Report 2022-1 came on regularly for hearing in the above-captioned matter. Having read and considered the papers and heard the arguments of counsel, if any, the Request is **GRANTED**. The Court hereby receives and files the Semi-Annual OBMP Status Report 2022-1.

Dated: DEC 16 2022


Hon. Gilbert G. Ochoa
Judge of the Superior Court

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 November 15, 2022, I served the following:

1. [PROPOSED] ORDER GRANTING REQUEST FOR COURT TO RECEIVE AND FILE WATERMASTER SEMI-ANNUAL OBMP STATUS REPORT 2022-1

BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by the 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.

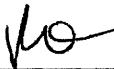
BY FACSIMILE: I transmitted said document by fax transmission from (909) 484-3890 to the fax number(s) indicated. The transmission was reported as complete on the transmission report, which was properly issued by the transmitting fax machine.

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.

See attached service list: Master Email Distribution List

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

Executed on November 15, 2022 in Rancho Cucamonga, California.



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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 action within. My business address is Chino Basin Watermaster, 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On December 19, 2022, I served the following:

1. NOTICE OF RULING AND ENTRY OF ORDERS

/ X / BY MAIL: in said cause, by placing a true copy thereof enclosed with postage thereon fully prepaid, for delivery by the 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.
See attached service list: Master Email Distribution List

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

Executed on December 19, 2022, in Rancho Cucamonga, California.



By: Ruby Favela Quintero
Chino Basin Watermaster

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

JUL 31 2020

BY 
ERIN MUELLER, DEPUTY

SCANNED

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

CHINO BASIN MUNICIPAL WATER)
DISTRICT,)
Plaintiff,)
vs.)
CITY OF CHINO, et al.,)
Defendants)

RCV 51010

ORDERS RE
CHINO BASIN WATERMASTER
MOTION REGARDING 2020 SAFE
YIELD RESET, AMENDMENT OF
RESTATED JUDGMENT,
PARAGRAPH 6

Date: July 10, 2020
Time: 1:30 PM
Department: 35/S1

PLEADINGS, ANALYSIS, and RULINGS¹

- 1) Chino Basin Watermaster Motion Regarding 2020 Safe Yield Reset, Amendment of Restated Judgment, Paragraph 6
 - a) The Watermaster motion requests that the court reset the Safe Yield of the

¹ For this final ruling, the court has adopted 1) all of the [filed July 16, 2020] proposed revisions contained in Chino Basin Watermaster's Notice of Lodging of [Proposed] Orders Re Chino Basin Watermaster Motion Regarding 2020 Safe Yield Reset, Amendments to Restated Judgment, Paragraph 6; and 2) all of the [filed July 24, 2020] proposed revisions contained in Chino Basin Watermaster's Notice of Errata Regarding [Proposed] Orders Re Chino Basin Watermaster Motion Regarding 2020 Safe Yield Reset, Amendment of Restated Judgment, Paragraph 6; and 3) none others.

1 Chino Basin from 135,000 acre-feet per year [AFY] to 131,000 for the period
2 commencing July 1, 2020 and ending on June 30, 2030. Pursuant to the
3 court's continuing jurisdiction, the court previously reset the Safe Yield from
4 its initial 140,000 AFY to 135,000 for the period of 2010 to 2020.

5 b) Additionally, Watermaster has requested the court to direct Watermaster to:

6 i) Undertake an interim revaluation of the Safe Yield upon the California
7 State Water Resource Control Board's adoption of conservation measures
8 (*i.e.*, reduced Evapotranspiration Adjustment Factors), which may impact
9 the net recharge of the Chino Basin during the Reset Period; and

10 ii) Move the court to further reset the Safe Yield if these conservation
11 measures will result in a change to the Safe Yield of the Chino Basin by
12 more than 2.5% during the Reset Period.

13 (1) The court notes that AB 1668 and SB 606 collectively known as
14 "Making Conservation a California Way of Life" [Water Code §10609,
15 et seq.] require the establishment of new water efficiency standards for
16 purveyors. The State Board will adopt urban irrigation standards that
17 could decrease the net recharge to the Basin, and thereby reduce the
18 Safe Yield of the Basin. However, the Watermaster engineer concluded
19 it was currently too speculative to analyze the legislation's impact on
20 Safe Yield.

21 c) The restated judgment, the 2017 order, and the 2019 order control the 2020
22 Safe Yield reset process.

23 i) The April 28, 2017 order [2017 order], pages 15 to 18, and the Reset
24 Technical Memorandum describe the process and methodology for the
25 2020 Safe Yield reset process.

26 (1) There was an additional order filed March 15, 2019 [2019 order] which
27 the court entered as a resolution of the issues after the appeal of the
28 2017 order.

1 ii) The reduction from 135,000 acre-feet to 131,000 acre-feet is a reduction of
2 3%. The reduction from the initial 140,000 acre-feet to 131,000 acre-feet is
3 reduction of 6.4%.

4 2) In support of the motion, Watermaster has submitted its 2020 Safe Yield
5 Recalculation Final Report [exhibit B to the motion], prepared by Mark
6 Wildermuth of Wildermuth Environmental [WEI], who has been Watermaster
7 engineer for previous Safe Yield recalculations.

8 a) The court finds that the analysis complies with the 2017 order, the 2019
9 orders, and the reset technical memorandum [exhibit A to the motion].

10 b) The court finds that the model was properly calibrated [section 6].

11 c) The court finds that the model has had adequate peer review.

12 d) The court finds that the parties had sufficient opportunity to participate and in
13 the process for the Safe Yield reset.

14 e) The court finds that the Safe Yield reset to 131,000AFY will not result in an
15 undesirable result or material physical injury to the Basin.

16 3) Joinders

17 a) Jurupa Community Services District (JCSD) *joinder* to Watermaster reset AND
18 *motion for continuance*

19 i) Filed June 23, 2020, Overlying (Agricultural Pool) [Ag Pool] OBJECTION
20 to Jurupa Community Services District [JCSD] *request for continuance* of
21 Watermaster reset, amendment of restated judgment paragraph 6.

22 (1) The court has granted the request for continuance; the new hearing date
23 and time is July 10, 2020, 1:30 PM, Department 35.

24 b) City of Pomona (Pomona) JOINDER in Watermaster reset [not a declaration
25 as indicated in the register of actions (ROA)].

26 c) Inland Empire Utilities Agency [IEUA]

27 d) Cucamonga Valley Water District JOINDER in Watermaster reset [not a
28 declaration as indicated in the ROA].

- 1 e) Fontana Union Water Company
- 2 f) Jurupa Community Services District (JCSD)
- 3 g) Three Valleys Municipal Water District
- 4 h) Western Municipal Water District (WMWD)
- 5 i) Ag Pool MOTION TO STRIKE JOINDERS of Pomona, IEUA,
- 6 Cucamonga Valley Water District and Fontana Union Water Company,
- 7 JCSD, Three Valleys Municipal Water District and WMWD.

8 (a) Filed June 24, 2020, Inland Empire Utility Agencies OPPOSITION
9 to Ag Pool *motion to strike joinders* to Watermaster motion (regarding
10 2020 Safe Yield reset) by Pomona, IEUA, Cucamonga Valley Water
11 District, and Fontana Union Water Company, JCSD, Three Valley's
12 Municipal Water District, and WMWD.

13 (i) The court overrules the Ag Pool *motion to strike* all joinders.

14 (ii) The court grants all joinders in the Watermaster reset motion.

15 4) OPPOSITIONS

16 a) Filed June 16, 2020, Chino OPPOSITION to Watermaster reset

17 b) Filed June 16, 2020, Ag Pool OPPOSITION to Watermaster reset

18 i) Filed June 19, 2020, Chino City REPLY to Ag Pool *opposition* to
19 Watermaster Reset

20 (1) Ag Pool *motion to strike* Chino City REPLY to Ag Pool *opposition*.

21 (a) Chino opposition to Overlying (Agricultural) Pool [Ag Pool] "ex
22 parte" motion to strike Chino REPLY to Ag Pool opposition to
23 Watermaster reset motion.

24 ii) Filed June 19, 2020, Appropriative Pool [AP] REPLY to Ag Pool's
25 *opposition* to Watermaster reset motion

26 (a) Ag Pool motion to strike Appropriative Pool REPLY to Ag Pool
27 opposition.

28 c) Filed June 19, 2020, Watermaster REPLY *to all oppositions* to Watermaster reset

1 motion.

2 DISCUSSION

3 A. Underlying Watermaster's Safe Yield reset is the Chino Valley Model (CVM)
4 which Mark Wildermuth and his firm have developed. The court finds the results of
5 this model to be reliable. Wildermuth has worked in the Chino Basin for more than
6 40 years and has developed and updated sophisticated model of the Basin, including
7 a 2007 version of the mode which WEI updated in 2013 on which the court relied to
8 for the court's 2017 order to set the Safe Yield for the 2011-2020 period.

9 1. Furthermore, after completing an administrative draft of the Safe Yield
10 report, Mr. Wildermuth's firm, WEI, met with consultants from Luhdorff &
11 Scalmanini Consulting Engineers [LSCE] as well as other technical experts associated
12 with the Appropriative Pool and the State of California to discuss the Safe Yield
13 analysis, methodology, modeling, and its application.

14 a) Will Halligan, of LCSE, worked with Joe Scalmanini when Scalmanini
15 served as the court's special referee's technical expert.

16 b) After completing its evaluation, LSCE concluded that the model
17 employed to develop the Safe Yield report, which is under the court's
18 consideration, is consistent with prevailing professional standards.

19 B. Filed June 16, 2020, Chino opposition to Watermaster reset motion

20 1. Chino has argued that Watermaster failed to produce an estimate if the
21 Basin's net recharge based upon the hydrological data set described in the 2017
22 order. [Page 2, line 27.]

23 2. However, the court has found that the Safe Yield reset analysis
24 complies with the court-ordered reset process. Wildermuth has used the Basin data
25 not only from 1921 to 1949, but also long term precipitation data from 1885 to the
26 present. As the court has pointed out before, the court and parties are dealing with
27 geological time frames, and a longer time frame for data should give better long term
28 results. The court agrees with the Watermaster argument Chino's suppositions about

1 incorporating information into a base period are just suppositions. The court must
2 rely on the conclusions of credible experts, such as Wildermuth.

3 3. Chino wants a range of usable estimates of net recharge, but provides
4 no basis upon which the court can make a selection among most reasonable bases.

5 4. Chino also argues that Watermaster refused to perform an uncertainty
6 analysis, which is a standard engineering practice used to identify the uncertainties
7 inherent in every model so as to lead to the most accurate estimate of the net
8 recharge of the Basin. [page 3, line 1.]

9 a) However, section 1.9 of the 2020 Safe Yield Recalculation Final Report
10 by WEI shows that there has been sufficient stakeholder and technical
11 reviews of the Safe Yield analysis to satisfy the court.

12 5. Chino also argues that it did not have an opportunity to delve into the
13 details of the CVM model. Release of the model could lead to parties and individuals
14 changing inputs into the model that enable advocacy to be injected into the modeling
15 process. Watermaster's assurances regarding transparency and open access are
16 buttressed by the court's oversight pursuant to its continuing jurisdiction over Safe
17 Yield, as well as the stakeholder and technical reviews set forth in the motion and
18 supporting exhibits and declarations.

19 6. To support its opposition, Chino relies on the declaration of Dave
20 Crosley, water and environmental manager for the city of Chino, a licensed civil
21 engineer (involved in 25 years; primary representative for Chino to the Appropriative
22 Pool) and the declaration of Eric Fordham, president of GeoPentech, Inc. (a
23 registered geologist with specialty certifications in the state for engineering geology
24 and hydrogeology, providing Chino with hydrogeology consulting services for 18
25 years).

26 a) Generally these reports complain that Wildermuth did not take into
27 account every possible scenario and every possible range of inputs

28 b) The court has considered the information provided by these two

1 consultations, but the court concludes that the extensive and extremely
2 well documented Wildermuth report is a much must more persuasive,
3 credible, and reliable basis for which the court to reset Safe Yield at
4 131,000 acre-feet/year.

5 7. Therefore, the court denies Chino's requests to:

- 6 a) Direct Watermaster to produce an estimate of the basis projected net
7 recharge based on the court ordered data.
- 8 b) Provide Chino the information it has requested including access to the
9 CVM.
- 10 c) Instruct Watermaster to engage Chino and the other parties in a
11 meaningful dialogue about the accuracy of the Basin's net recharge and
12 the proper Safe Yield.
- 13 d) Additionally the court finds that:
- 14 I) Chino's concerns can be addressed in the OBMP planning efforts.
- 15 II) The restated judgment makes setting Safe Yield an action authorized
16 under the court's continuing jurisdiction, and the court has expressly
17 ordered Watermaster to assume responsibility for the necessary
18 evaluation.
- 19 III) Watermaster conducted and facilitated the 2020 Safe Yield reset
20 process with ongoing opportunities for participation by the parties.
21 Chino and the Ag Pool availed themselves of these opportunities.
22 Examples are set forth on pages 4-6 of Watermaster's reply.
- 23 IV) To rise to level of making a change and outcomes sufficiently
24 certain to be incorporated into a Safe Yield reset the valuation, there
25 would need to be coordinating agreements and an operating plan,
26 none of which exist today. [Page 5, lines 9-11.]
- 27 V) While Chino argues that the language at page 16 of the 2017 order
28 required Watermaster engineer to set the CVM base period to

1 include an “entire period” [unclear to the court, but apparently from
2 1921 to 1949], neither the 2017 order of the reset technical
3 memorandum mandates this. The Wildermuth declaration states his
4 report uses long-term precipitation data from 1895 to present
5 inclusive of the period from 1921 to the present. Wildermuth
6 selected 1950 to 2011 for the planning period.

- 7 e) Chino’s argument would lead to a range of Safe Yields with no particular
8 basis for the selection of one over another. There is no logical basis on
9 which the court could make that decision. It would result in a lengthy
10 trial and analysts experts’ opinions of varying opinions. The weight that
11 the court gives to Wildermuth evaluation as proven itself and stood the
12 test of time. Therefore the court selects that one.

13 C. Opposition of Overlying (Agricultural) Pool [Ag Pool]

14 1. The Ag Pool opposition is that during the 2010 to 2020 reset period,
15 the actual net recharge to the Basin was 125,000 acre-feet per year, 10,000 acre-feet
16 per year less than the 135,000 AFY Safe Yield projected by Watermaster’s modeling
17 and set by the court.

- 18 a) So, the Ag Pool claims that the 2020 Safe Yield reset failed to account
19 for this lower than projected net recharge in the Basin. The Basin’s
20 actual hydrology was 10,000 acre-feet per year less for the last decade
21 which adds up to the 100,000 acre-feet of over allocation. The Ag Pool
22 asserts that this over allocation resulted in increased storage that
23 threatens Safe Yield.
- 24 b) The Ag Pool claims Watermaster is jumping from a test projected net
25 recharge to another projection of net recharge without adjusting for
26 actual conditions in the Basin over the previous Safe Yield reset
27 planning period [that is 2010 to 2019].

28 (a) The Ag Pool asserts that Watermaster’s refusal to remedy that

1 error in the current Safe Yield reset results in MPI to the
2 Basin. [Page 6, line 19.]

3 c) The Ag Pool's primary concern is that "Basin storage" (also called
4 native groundwater and some of the documents) has not been
5 accounted for and the Safe Yield reset for the 2020 storage
6 management plan.

7 I) The Ag Pool talks about Watermaster's storage management plan
8 white paper. Nowhere else is this mentioned in any of the
9 paperwork filed with the court. The court gathers that this white
10 paper talks about the operational storage requirement [OSR] is the
11 storage volume in the Chino Basin necessary to maintain Safe Yield.

12 II) The Ag Pool complains that depletion in Basin storage shows that
13 the Basin's Safe Yield has not been maintained causing MPI.

14 (a) However, the Ag Pool does not identify any specific MPI.

15 (b) The Ag Pool complains that Basin storage is noted to have
16 been reduced to less than 4.5 MAF by 2019, and that is a
17 reduction of over 800,000 as below operational storage
18 requirement for 1997 to 2019.

19 (i) There is no specific consequence to this complaint.

20 (c) The Ag Pool also argues that groundwater in managed storage
21 is subject to production rights and will be extracted at some
22 point in time. The Safe Yield reset in the 2020 storage
23 management plan did not account for this shortfall below
24 operational storage requirements so the extraction of
25 managed storage will result in MPI.

26 (i) Again, the court notes that no MPI is not specifically
27 identified.

28 (d) The Ag Pool uses an analogy to a bank account, that if you

1 take more money out than your deposit, sooner or later you
2 run out of money. [Page 8, line 7.]

3 2. Watermaster response is that the reset looks forward, not backwards;
4 furthermore, the reset tries to take into account all the factors. Although the
5 Watermaster reply was with respect to both the opposition of the Chino and the Ag
6 Pool, the court will address it here.

7 a) Watermaster argues that the Ag Pool approach is basically a worst case
8 scenario approach. It looks to the worst drought we had in the last 50
9 years and worries that the Basin is going to have another worst drought
10 in the next 50 years.

11 b) The prospective long range model is the one the court must consider.
12 Ten years in geological time is nothing more than an instant. Even 100
13 years is a short time. The court must consider, as the Wildermuth
14 report does, the longest time period for which relevant data exists.

15 I) Watermaster also argues that the Ag Pool approach only looks at the
16 last 10 years.

17 (a) The court concludes that the Wildermuth report and all of its
18 underlying data has the correct broad, not narrow,
19 interpretation for the OBMP. The OBMP does not require
20 that the court look only at the previous 10 years to compute
21 Safe Yield.

22 (b) An implication of the Ag Pool opposition, not sought by the
23 Ag Pool, is that the court should set the Safe Yield at 125,000
24 acre-feet/year in an attempt to catch up with the 10,000 acre-
25 feet per year that were pumped for the last 10 years without
26 replenishment. The court has previously relied on the
27 forecast and recommendations of Wildermuth and found
28 them to be credible. The court will continue to rely on those

1 predictions with the additional reduction of 4000 acre-feet per
2 year in Safe Yield.

3 (c) The storage management plan and the Safe Yield might be
4 intimately interlinked and dependent on each other.

5 However, intertwining the two leads to the problem such as
6 the court encountered the Safe Yield Reset Agreement
7 (SYTRA) in 2015. There were so many objections to all the
8 aspects of SYRA that the motion failed. The court had to
9 focus on the groundwater analysis. The GSI report is
10 engaging in legal analysis, not groundwater analysis.

11 (d) There is no legal requirement that the next Safe Yield be
12 based solely upon the 10 year period 2011 to 2020. To do so
13 would be contrary to all the court's orders and the CAMA
14 (Court Approved Management Agreements). Also, to make
15 such a narrow basis for projection would be too narrow a
16 range for a substantial prediction.

17 c) The court confirms the argument of Watermaster that Safe Yield reset
18 was never intended to precisely match actual net recharge over a 10 year
19 period. .

20 d) There is no support in the evidence that allowing production at the
21 projected net recharge during the reset period would constitute an
22 undesirable results or material physical injury to the Basin.

23 I) Wildermuth's professional opinion is that allocating the Safe Yield
24 equivalent to the net recharge during the reset period would not
25 result in undesirable results or material physical injury.

26 (a) The court notes Watermaster's point that the "operational
27 storage requirement" quantity cited by the Ag Pool is a
28 remnant of a prior analysis that was prepared as a precursor

1 to the 2020 storage management plan. Those have been
2 superseded by the analysis performed using the CVM. The
3 CVM estimates the total quantity of water in the Basin at least
4 12,000,000 acre feet. The court methodology does not
5 require a “true up” related to a prior reset period.

6 (b) Additionally the Ag Pool’s comments regarding the
7 consistency of the Safe Yield report’s recommendation with
8 the OBMP implementation plan and Watermaster rules and
9 regulations, the document cited have been superseded by the
10 courts 2017 order and 2019 orders. [Page 9].

11 (i) Language in the reset technical memorandum to which
12 the Ag Pool refers was the process in the OBMP
13 before the courts 2017 order.

14 (ii) The Ag Pool is a party to a contest proceeding
15 regarding applications to store and transfer excess carry
16 over water.

17 (iii) The net recharge is estimated using parties projected
18 water demands and production. In the case of the
19 Appropriative Pool parties, these estimates were
20 provided by the parties themselves.

21 3. Chino reply to Ag Pool opposition filed June 19, 2020

22 a) Ag Pool motion to strike Chino reply

23 I) The Ag Pool motion to strike

24 (a) Chino opposition to Ag Pool motion to strike Chino reply to
25 Ag Pool opposition to reset motion filed June 26, 2020.

26 a. The Ag Pool motion to strike is denied.

27 b) Chino argues that the Ag Pool is now trying to reset retroactively the
28 Safe Yield of the Basin to 135,000 AFY for 2010 to 2020.

1 c) Further, Chino argues that the Ag Pool has failed to show that there
2 was an undesirable result of material physical injury from the
3 “overallocation” of 10,000 AFY for the 10 year period

4 I) For the reasons stated herein, the court finds that there was no
5 “overallocation” and nothing for which any appropriator has a duty
6 to replenish.

7 4. Filed June 19, 2020, Appropriative Pool reply to Overlying
8 (Agricultural) Pool [Ag Pool] opposition

9 a) Motion of the Ag Pool to strike the Appropriative Pool reply.

10 I) Motion denied.

11 II) There is no legal basis for the request and it is simply an attempt to
12 evade the submission of Harder’s report and the agricultural pools
13 interpretation of that.

14 b) The court notes that the Ag Pool gave its express written approval to
15 the 2015 Safe Yield reset/recalculation methodology set forth in the
16 2017 Safe Yield reset order methodology. That express written
17 approval by the Ag Pool did not mention or advocate that the court
18 adjust the methodology to address the claim the Ag Pool is now
19 making, *i.e.*, that 100,000 acre-feet of water was over allocated during
20 the 2011-2020 reset period.

21 c) The Ag Pool’s opposition is rooted in the prior reset period on which it
22 signed off via its express written approval of the prescribed
23 methodology for the 2017 SYR (Safe Yield Reset) order, and it is not
24 based on any revelatory data from the 2020 SYR motion.

25 d) In reliance on the court’s 2017 SYR order, the Appropriative Pool
26 members structured their operations and planning processes, and
27 expended substantial ratepayer money based on the availability and
28 associated cost to use Chino Basin water.

- 1 e) The Ag Pool is advocating a change in the interpretation of the 2017
2 SYR order methodology that disregards the long-term hydrology the
3 Basin in favor of the most recent 10 year period in contravention of the
4 courts clear methodology directive.
- 5 f) There is no provision in the 2015 Safe Yield reset methodology and
6 requires adjustments to account for alleged overestimated Safe Yield in
7 the prior 10 years. Accordance with element 5 of the 2015 Safe Yield
8 methodology, no adjustments are necessary because no material
9 physical injury was evident from the forward projection.
- 10 g) Thomas Harder (the Appropriative Pool's technical expert) rejects the
11 technical assertions made in the Ag Pool's opposition regarding any
12 alleged undesirable results or material physical injury.
- 13 I) The declaration of Thomas Harder in support of the appropriative
14 pool's reply.
- 15 (a) He essentially supports the motion.
- 16 (b) Any over allocation of Safe Yield for the period 2010 through
17 2020 would have been accounted for any estimate of Safe
18 Yield and the determination of no material physical injury.
- 19 (c) There is no provision in the 2015 Safe Yield reset
20 methodology that requires adjustments to account for
21 overestimated Safe Yield of the prior 10 years.

22
23 Therefore, the court orders:

24 I. Watermaster has satisfied the requirements of the court's April 28, 2017 orders
25 for Watermaster's Motion Regarding 2015 Safe Yield Reset Agreement, Amendment
26 of Restated Judgment, paragraph 6 ("2017 order") as they relate to the resetting of
27 the Safe Yield of the Basin by June 30, 2020;

28 II. Paragraph 6 of the Restated Judgment is hereby amended to read as follows:

1 “Safe Yield. Safe Yield of the Basin is 131,000 acre-feet per year.”

2 III. Effective date of the amendment of Paragraph 6 of the Restated Judgment is July
3 1, 2020.

4 IV. Watermaster shall commence the next Safe Yield reset process, taking into
5 account then prevailing best management practices and advances in hydrological
6 science, no later than July 1, 2028, so the Safe Yield for the period commencing July
7 1, 2030, and ending June 30, 2040, may be reset by June 30, 2030. Watermaster show
8 present its evaluation and recommendation regarding Safe Yield for the period of
9 July 1, 2030, and ending June 30, 2040, to the Parties to the Judgment no later than
10 January 1 72030.

11 V. If the California State Water Resources Control Board develops water
12 conservation measures prior to June 30, 2030, that result in a reduction in urban
13 irrigation in the Chino Basin (*i.e.*, reduced Evapotranspiration Adjustment Factors),
14 as required by Water Code § 10609, et seq., that is reasonably likely to materially
15 reduce recharge to the Basin, Watermaster shall conduct a reevaluation of the Safe
16 Yield in the Chino Basin. If the State’s measures are determined to change the Safe
17 Yield of the Basin by more than 2.5% during the Reset Term, Watermaster will
18 promptly move the court to reset the Safe Yield pursuant to the methodology
19 adopted in the 2017 order.

20 IT IS SO ORDERED.

21
22 Date: 7-31-20

23
24 

25 Judge Stanford E. Reichert
26 San Bernardino County Superior Court
27
28

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FEE EXEMPT

12 Attorneys for
13 **CHINO BASIN WATERMASTER**

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

16 CHINO BASIN MUNICIPAL WATER
17 DISTRICT,

18 Plaintiff,

19 v.

20 CITY OF CHINO, et al.,

21 Defendant.

Case No. RCV RS51010

[Assigned for All Purposes to the Honorable
Stanford E. Reichert]

**NOTICE OF ORDERS AT MARCH 15,
2019 HEARING**

Date: March 15, 2019
Time: 1:30
Dept: S35

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that, on March 15, 2019 at 1:30 p.m. in Department S35 of
the above-entitled Court, the following motions came on for regular hearing before the Honorable
Stanford E. Reichert:

(1) Notice of Motion and Motion Regarding Amendment of Pooling Plan for the Non-
Agricultural Pool, Attached to the Judgment As Exhibit G, filed by the Non-Agricultural Pool
Committee on October 4, 2018;

(2) Chino Basin Watermaster Notice of Motion and Motion Regarding Amendments
to Restated Judgment, Peace Agreement, Peace II Agreement, Re-Operation Schedule, filed on
January 15, 2019;

BROWNSTEIN HYATT FARBER SCHRECK, LLP
1021 Anacapa Street, 2nd Floor
Santa Barbara, CA 93101-2711

1 (3) Notice of Motion and Motion to Approve Amendments to Appropriative Pool
2 Pooling Plan and Court-Approved Management Agreements, filed by Cucamonga Valley Water
3 District, Monte Vista Water District, City of Pomona, City of Chino, Jurupa Community Services
4 District, and City of Ontario on January 15, 2019 (“Appeal Parties Motion”); and,

5 (4) Watermaster’s Notice of Motion and Motion for Court to Receive and File
6 Watermaster’s 41st Annual Report, filed on January 31, 2019.

7 At the hearing, the Court entered the Order Regarding Amendment of Pooling Plan for the
8 Non-Agricultural Pool, Attached to the Judgment as Exhibit G, a copy of which is attached to this
9 Notice as **Exhibit A**.

10 The Court entered the Findings and Order Regarding Amendments to the Restated
11 Judgment, Peace Agreement, Peace II Agreement, and Re-Operation Schedule, a copy of which is
12 attached to this Notice as **Exhibit B**.

13 The Court entered an Order regarding the Appeal Parties Motion, a copy of which is
14 attached to this Notice as **Exhibit C**.

15 The Court entered the Order re Watermaster’s Motion for Court to Receive and File
16 Watermaster’s 41st Annual Report, a copy of which is attached to this Notice as **Exhibit D**.

17 The Court further ordered that the Verified Petition for Writ of Mandate, filed November
18 19, 2018 by the Overlying (Agricultural) Pool Committee be taken off-calendar, and continued
19 the hearing on the Notice of Motion and Motion to Confirm Stay Pending Appeal of Defendants
20 and Appellants Cucamonga Valley Water District, Monte Vista Water District and City of
21 Pomona, filed on August 10, 2017, to June 21, 2019 at 1:30 p.m. in Department S35 of the above-
22 entitled Court.

23 Dated: March 18, 2019

BROWNSTEIN HYATT FARBER SCHRECK, LLP


24
25 BY: 
26 SCOTT S. SLATER
27 BRADLEY J. HERREMA
28 CHRISTOPHER R. GUILLEN
ATTORNEYS FOR CHINO BASIN WATERMASTER

EXHIBIT A

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION

MAR 15 2019

BY 
ACHLEE BAYLESS, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER
DISTRICT,

Plaintiff,

v.

CITY OF CHINO, ET AL.,

Defendants.

Case No. RCVRS 51010

Judgment Entered On January 27, 1978, as
Amended

~~PROPOSED~~ ORDER REGARDING
AMENDMENT OF POOLING PLAN
FOR THE NON-AGRICULTURAL
POOL, ATTACHED TO THE
JUDGMENT AS EXHIBIT G

Date: December 28, 2018

Time: 1:30 p.m.

Dept.: Dept. S35

Assigned for All Purposes to the
Honorable STANFORD E. REICHERT

The Court has considered the Motion, and the pleadings and papers on file in this
Action. All notices having been given as required by law; and good cause appearing
therefor, IT IS HEREBY ORDERED that Paragraphs 6, 9, 10 and 11 of the Pooling Plan

1 for the Non-Agricultural Pool, attached to the Judgment as Exhibit G, are amended to
2 reflect the contents of Exhibit A attached hereto.

3 IT IS SO ORDERED.

4
5
6 Dated:

~~3-19-19~~ 3/15/19 *SR Reichert*



JUDGE OF SUPERIOR COURT

STANFORD E. REICHERT

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Exhibit A

EXHIBIT A

PROPOSED AMENDMENT TO THE NON-AGRICULTURAL POOL POOLING PLAN

1. Section 6 of Exhibit G to the Judgment (the NAP Pooling Plan) is hereby amended and restated as follows:

6. Assignment. Rights herein decreed are appurtenant to that land and are only assignable with the land for overlying use thereon; provided, however (a) 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, and (b) the members of the pool shall have the right to Transfer or lease their quantified production rights within the pool or to Watermaster in conformance with the procedures described in the Peace Agreement between the parties therein, dated June 29, 2000 for the term of the Peace Agreement. Any production pursuant to any such agency agreement (1) shall not constitute production in the Appropriative Pool for the purpose of calculating any assessments imposed on members of the Appropriative Pool, including without limitation replenishment assessments; and (2) shall constitute production in the Non-Agricultural Pool by the assignor for the purpose of calculating any assessments imposed on members of the Non-Agricultural Pool, with the continuing dedications by members of the Non-Agricultural Pool of 10% of their annual share of Operating Safe Yield to desalter replenishment pursuant to Section 5(c) being the sole and exclusive method by which such members shall be required to contribute at any time to desalter production or desalter replenishment.

2. Section 9 of Exhibit G to the Judgment (the NAP Pooling Plan) is hereby amended and restated as follows:

9. Physical Solution Transfers. All overlying rights are appurtenant to the land and cannot be assigned or conveyed separate or apart therefrom except that for the term of the Peace Agreement the members of the Overlying (Non-Agricultural) Pool shall have the discretionary right to Transfer or lease their quantified Production rights and carry-over water held in storage accounts in quantities that each member may from time to time individually determine as Transfers in furtherance of the Physical Solution: (i) within the Overlying (Non-Agricultural) Pool; (ii) to Watermaster in conformance with the procedures described in the Peace Agreement between the Parties therein, dated June 29, 2000; (iii) in conformance with the procedures described in Paragraph I of the Purchase and Sale Agreement for the Purchase of Water by Watermaster from Overlying (Non-Agricultural Pool dated June 30, 2007; or (iv) to Watermaster and thence to members of the Appropriative Pool in accordance with the following guidelines and those procedures Watermaster may further provide in Watermaster's Rules and Regulations:

(a) 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. The Pool Committee of the Overlying (Non-Agricultural) Pool may, by affirmative action of its members from time to time, establish a price for such water or a method pursuant to which such price will be established. By January 31 of each year, Watermaster shall provide a Notice of Availability of each Appropriator's pro-rata share of such water;

(b) Except as they may be limited by paragraph 9(e) below, each member of the Appropriative Pool will have, in their discretion, a right to purchase its pro-rata share of the supply made available from the Overlying (Non-Agricultural) Pool at the price at which the water is being offered. Each Appropriative Pool member's pro-rata share of the available supply will be based on each Producer's combined total share of Operating Safe Yield and the previous year's actual Production by each party;

(c) If any member of the Appropriative Pool fails to irrevocably commit to their allocated share by March 1 of each year, its share of the Overlying (Non-Agricultural) Pool water will be made available to all other members of the Appropriative Pool according to the same proportions as described in 9(b) above and at the price at which the water is being offered. Each member of the Appropriative Pool shall complete its payment for its share of water made available by June 30 of each year.

(d) Commensurate with the cumulative commitments by members of the Appropriative Pool pursuant to (b) and (c) above, Watermaster will purchase the surplus water made available by the Overlying (Non-Agricultural) Pool water on behalf of the members of the Appropriative Pool on an annual basis at the price at which the water is being offered and each member of the Appropriative Pool shall complete its payment for its determined share of water made available by June 30 of each year.

(e) Any surplus water cumulatively made available by all members of the Overlying (Non-Agricultural) Pool that is not purchased by Watermaster after completion of the process set forth herein will be pro-rated among the members of the Pool in proportion to the total quantity offered for transfer in accordance with this provision and may be retained by the Overlying (Non-Agricultural) Pool member without prejudice to the rights of the members of the Pool to make further beneficial use or transfer of the available surplus.

(f) Each Appropriator shall only be eligible to purchase their pro-rata share under this procedure if the party is: (i) current on all their assessments; and (ii) in compliance with the OBMP.

(g) The right of any member of the Overlying (Non-Agricultural) Pool to transfer water in accordance with this Paragraph 9(a)-(c) in any year is dependent upon Watermaster making a finding that the member of the Overlying (Non-Agricultural) Pool is using recycled water where it is both physically available and appropriate for the designated end use in lieu of pumping groundwater.

(h) Nothing herein shall be construed to affect or limit the rights of any Party to offer or accept an assignment as authorized by the Judgment Exhibit "G" paragraph 6 above, or to affect the rights of any Party under a valid assignment.

3. A new Section 10 of Exhibit G to the Judgment (the NAP Pooling Plan) is inserted as follows:

10. Elective Transfers for Desalter Replenishment. Any member of the Non-Agricultural Pool (including without limitation any member of the Non-Agricultural Pool that is also a member of the Appropriative Pool) may elect to transfer (a) some or all of the annual share of Operating Safe Yield of the transferor in and for the year in which the transfer occurs (except that such transfer shall exclude any dedication to Watermaster required by Section 5(c) hereof), and (b) any quantity of water held in storage by the transferor (including without limitation carryover and excess carryover) to any member of the Appropriative Pool, in either case at any price that the transferor and transferee may deem appropriate and for the purpose of satisfying the transferee's desalter replenishment obligation. Any such transfer shall be effective upon delivery by the transferor or transferee to Watermaster staff of written notice of such transfer in the form attached hereto as Form A. The transferee's desalter replenishment obligation shall be credited by the number of acre feet so transferred.

4. Existing Section 10 of Exhibit G to the Judgment (the NAP Pooling Plan) is renumbered as Section 11 as follows:

11. Rules. The Pool Committee shall adopt rules for administering its program and in amplification of the provisions, but not inconsistent with, this pooling plan.

FORM A

NOTICE OF ELECTIVE TRANSFER FOR DESALTER REPLENISHMENT

QUANTITY:

_____ Acre-Feet of Annual Share of Operating Safe Yield for Current Year

_____ Acre-Feet of Carryover

_____ Acre-Feet of Excess Carryover

Transferor and Transferee hereby provide written notice to Watermaster staff of a transfer by the Transferor, in its capacity as a member of the Non-Agricultural Pool, to Transferee, in its capacity as a member of the Appropriative Pool, of water in the quantity and of the type set forth above pursuant to Section 10 of Exhibit G to the Judgment.

| | |
|--|---|
| <p>TRANSFEROR NAME: _____</p> <p>By: _____ Name: _____ Its: _____ Dated: _____</p> | <p>TRANSFEEE NAME: _____</p> <p>By: _____ Name: _____ Its: _____ Dated: _____</p> |
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EXHIBIT B

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION
MAR 15 2019

BY ~~_____~~
ACQULE LAWLESS, DEPUTY

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 RS51010

Assigned for All Purposes to the
Honorable Stanford E. Reichert

~~PROPOSED~~ FINDINGS AND ORDER
REGARDING AMENDMENTS TO
RESTATED JUDGMENT, PEACE
AGREEMENT, PEACE II AGREEMENT,
AND RE-OPERATION SCHEDULE

The Court having read, reviewed, and considered all pleadings, declarations, and exhibits presented for the March 15, 2019 hearing, and the arguments of counsel, if any, the Court finds as follows:

(1) Watermaster is in substantial compliance with the approved Recharge Master Plan as required by Restated Judgment Exhibit "I", paragraph 2(b)(6), and the amended schedule set forth in Exhibit "B" to Watermaster's Resolution 2019-03 providing the quantities of Re-Operation Water that may be accessed by the Parties will not cause material physical injury to the Basin.

(2) The signatories to the Peace Agreement and the Peace II Agreement have been notified of Watermaster's Motion Regarding Amendments to Restated Judgment, Peace Agreement, Peace II agreement, and Re-Operation Schedule and have consented to the proposed

1 amendments to the Peace Agreement and Peace II Agreement set forth in Watermaster's
2 Resolution 2019-03;

3 (3) The proposed amendments to the Court Approved Management Agreements are
4 implementable by Watermaster provided that it can proceed to redetermine Safe Yield on a timely
5 basis as provided on pages 15-18 of this Court's April 28, 2017 Order.

6 SUBJECT TO THE CONTINUING JURISDICTION OF THE COURT, the Court hereby
7 makes the following Orders:

8 (1) Watermaster's adoption of its Resolution 2019-03 is approved and Watermaster
9 shall proceed in accordance with the Resolution and the documents attached thereto;

10 (2) Watermaster shall proceed to redetermine Safe Yield as set forth on pages 15-18 of
11 the Court's April 28, 2017 Order;

12 (3) The amendment to Paragraph 10 of Exhibit "H" to the Restated Judgment as
13 shown in Attachment A hereto is approved;

14 (4) The amended schedule for access to Re-Operation water shown in Attachment B
15 hereto is approved;

16 (5) The amendments to Paragraphs 6, 9, and 10 of Exhibit "G" to the Restated
17 Judgment as shown in Attachment C hereto are approved; and

18 (6) Watermaster shall implement the Restated Judgment and continue to comply with
19 all commitments made in the Court Approved Management Agreements, as amended by this
20 Order.

21
22 IT IS SO ORDERED.

23 Dated: 3.15.19



Stanford E. Reichert
24 **STANFORD E. REICHERT**
25 JUDGE OF THE SUPERIOR COURT

26
27 18540473

**ATTACHMENT A
[PROPOSED] ORDER**

Exhibit A

Proposed Changes to Appropriative Pool Pooling Plan and CAMA

1. **Appropriative Pool Pooling Plan.** The introductory sentence to Exhibit H, ¶10 of the Judgment is amended to read as follows:

10. Unallocated Safe Yield Water. To the extent that, in any ~~year~~ **five years**, any portion of the share of Safe Yield allocated to the Overlying (Agricultural) Pool is not produced, such water shall be available for reallocation to members of the Appropriative Pool, as follows:

2. Early Transfer

A. Section 1.1(o) of the Peace Agreement is amended to read as follows:

(o) "Early Transfer" means the reallocation of Safe Yield not Produced by the Agricultural Pool to the Appropriative Pool on an annual basis **after the allocations in subdivisions (a)(1) and (a)(2) of** ~~rather than according to the five-year increment described in Paragraph 10 of Exhibit "H" of the Judgment;~~

B. Section 5.3(g) of the Peace Agreement is amended to read as follows:

(g) Watermaster shall approve an "Early Transfer" of water to the Appropriative Pool ~~in an amount not less than 32,800 acre-feet per year that is the expected approximate~~ quantity of water not Produced by the Agricultural Pool **on an annual basis** ~~The quantity of water subject to Early Transfer under this paragraph shall be the greater of (i) 32,800 acre-feet of (ii) 32,800 acre-feet plus the actual quantity of water not Produced by the Agricultural Pool for that Fiscal Year that is remaining after all the land use conversions are satisfied pursuant to 5.3(~~h~~) below.~~

- (i) The Early Transfer water shall be annually allocated among the members of the Appropriative Pool in accordance with their pro-rata share of the initial Safe Yield.
- (ii) The Transfer shall not limit the Production right of the Agricultural Pool under the Judgment to Produce up to 82,800 acre-feet of water in any year or 414,000 acre-feet in any five years as provided in the Judgment.
- (iii) The combined Production of all parties to the Judgment shall not cause a Replenishment assessment on the members of the Agricultural Pool. The Agricultural Pool shall be responsible for any Replenishment obligation created by the Agricultural Pool Producing more than 414,000 acre-feet in any five-year period.
- (iv) The parties to the Judgment and Watermaster shall Produce water in accordance with the Operating Safe Yield and shall procure sufficient quantities of Replenishment Water to satisfy over-Production requirements, whatever they may be, and avoid Material Physical Injury to any party to the Judgment or the Basin;

(v) Nothing herein shall be construed as modifying the procedures or voting rights within or by the members of the Agricultural Pool.

3. **Conversion Claims.** Subparagraph (b)(3)(i) of Exhibit H, ¶ 10 of the Judgment is amended to read as follows:

(i) For the term of the Peace Agreement *and any extension thereof*, in any year in which sufficient unallocated Safe Yield from the Overlying (Agricultural) Pool is available for such conversion claims, Watermaster shall allocate to each appropriator with a conversion claim 2.0 acre-feet of unallocated Safe Yield water for each converted acre for which conversion has been approved and recorded by the Watermaster.

4. **Controlled Overdraft.** Pursuant to section 7.2(e)(ii) of the Peace II Agreement, 175,000 acre-feet of controlled overdraft (Re-Operation water) will be allocated to Desalter replenishment over a 17-year period, beginning in 2013-14 and ending in 2029-30, according to the schedule attached as Exhibit A.

5. **New Yield.** Section 7.1 of the Peace II Agreement, entitled “New Yield Attributable to Desalters,” is deleted. It is replaced by new section 6.2(b)(ii) as set forth in section 6 below.

6. **Desalter Replenishment.** Section 6.2(b) of the Peace II Agreement is amended to read as follows:

(b) To the extent available credits are insufficient to fully offset the quantity of groundwater production attributable to the Desalters, Watermaster will use water or revenue obtained by levying the following assessments among the members of the Overlying (Non-Agricultural) Pool and the Appropriative Pool to meet any remaining replenishment obligation as follows.

(i) A Special OBMP Assessment against the Overlying (Non-Agricultural) Pool as more specifically authorized and described in amendment to Exhibit “G” paragraph ~~8(e)~~ 5(c) to the Judgment will be dedicated by Watermaster to further off-set replenishment of the Desalters. However, to the extent there is no remaining replenishment obligation attributable to the Desalters in any year after applying the off-sets set forth in 6.2(a), the OBMP Special Assessment levied by Watermaster will be distributed as provided in section 9.2 below. The Special OBMP Assessment will be assessed pro-rata on each member’s share of Safe Yield, followed by

(ii) The members of the Appropriative Pool will contribute a total of 10,000 afy toward Desalter replenishment, allocated among Appropriative Pool members as follows:

(1) 85% of the total (8,500 afy) will be allocated according to the Operating Safe Yield percentage of each Appropriative Pool member; and

(2) 15% of the total (1,500 afy) will be allocated according to each land use conversion agency’s percentage of the total land use conversion claims, based on the actual land use conversion allocations of the year.

The annual desalter replenishment obligation contribution of each Appropriative Pool member will be calculated using the following formula:

*Desalter replenishment obligation contribution = (8,500 * % Appropriator's share of total initial 49,834 afy Operating Safe Yield) + (1,500 * % Appropriator's proportional share of that year's total conversion claims)*

A sample calculation of the desalter replenishment obligation contribution for each Appropriative Pool member is shown on Exhibit __ to this Peace II Agreement, as amended.

- (iii) (ii) A Replenishment Assessment against the Appropriative Pool for any remaining Desalter replenishment obligation after applying both 6(b)(i) and 6(b)(ii), allocated pro-rata to each Appropriative Pool member according to the combined total of the member's share of Operating Safe Yield and the member's Adjusted Physical Production, as defined below. pro-rata based on each Producer's combined total share of Operating Safe Yield and the previous year's actual production. Desalter Production is excluded from this calculation. A sample calculation of the allocation of the remaining desalter obligation is shown in Exhibit __ to this Peace II Agreement. However, if there is a material reduction in the net cost of Desalter product water to the purchasers of product water, Watermaster may re-evaluate whether to continue the exclusion of Desalter Production but only after giving due regard to the contractual commitment of the parties.*
- (iv) Adjusted Physical Production is the Appropriative Pool member's total combined physical production (i.e., all groundwater pumped or produced by the Appropriative Pool member's groundwater wells in the Chino Basin, including water transferred from the Non-Agricultural Pool under Exhibit G, ¶9 of the Judgment), with the following adjustments:*
- (1) In the case of assignments among Appropriative Pool members, or between Appropriative Pool members and Non-Agricultural Pool members under Exhibit G, ¶6 of the Judgment, resulting in pumping or production by one party to the Judgment for use by another party to the Judgment, the production for purposes of Adjusted Physical Production shall be assigned to the party making beneficial use of the water, not the actual producer.*
 - (2) Production offset credits pursuant to voluntary agreements under section 5.3(i) of the Peace Agreement are calculated at 50% of the total voluntary agreement credit in the determination of Adjusted Physical Production for an Appropriative Pool member participating in a voluntary agreement for that year. In the determination of Adjusted Physical Production, the voluntary agreement credit is subtracted from physical production. Reduction of the voluntary agreement credit from 100% to 50% is applicable only to the calculation of the Adjusted Physical Production hereunder; but in all other applications, the voluntary agreement credit shall remain unchanged (i.e. remain at 100%).*

(3) *Production associated with approved storage and recovery programs (e.g., Dry Year Yield recovery program with MWD) is not counted in Adjusted Physical Production, except for in-lieu participation in such programs: in-lieu put quantities shall be added to physical production, and in-lieu take quantities shall be subtracted from physical production.*

(4) *Metered pump-to-waste Production that is determined by Watermaster to be subsequently recharged to the groundwater basin is deducted from physical production; unmetered pump-to-waste production that is determined by Watermaster not to be subsequently recharged to the groundwater basin is added to physical production.*

(5) *The Appropriative Pool may approve, by unanimous vote, the inclusion of other items in the determination of Adjusted Physical Production, with the exception of Non-Agricultural Pool water assigned or transferred under Exhibit G, ¶6 or ¶10 of the Judgment.*

(v) *Any member of the Non-Agricultural Pool that is also a member of the Appropriative Pool may elect to transfer (a) some or all of the annual share of Operating Safe Yield of the transferor in and for the year in which the transfer occurs (except that such transfer shall exclude any dedication to the Watermaster required by section 6.2(b)(1)), and (b) any quantity of water held in storage by the transferor (including without limitation carryover and excess carryover) to any member of the Appropriative Pool, in either case at any price that the transferor and transferee may deem appropriate and for the purpose of satisfying the transferee's desalter replenishment obligation. The transferee's desalter replenishment obligation shall be credited by the number of acre-feet so transferred.*

(vi) ~~(iii)~~ *The quantification of any Party's share of Operating Safe Yield does not include either land use conversions or Early Transfers.*

7. **Allocation of Non-Agricultural Pool OBMP Special Assessment.** The introductory sentence of section 9.2(a) of the Peace II Agreement is amended to read as follows:

a. For a period of ten years from the effective date of the Peace II Measures, any water (or financial equivalent) that may be contributed from the Overlying (Non-Agricultural) Pool in accordance with paragraph ~~8(e)~~-5(c) of Exhibit G to the Judgment (as amended) will be apportioned among the members of the Appropriative Pool in each year as follows:

Attachment: Peace Agreement, Section 7.2 (e)(ii)
 Schedule for Use of Re-Operation Water**, and
 Calculation of Remaining Desalter Replenishment Obligation (DRO)
 Production from 2017-18 through 2029-30 is estimated

| Production Year | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 | 2021-22 |
|-------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Peace I Desalter Production | 29,227.997 | 29,541.300 | 27,008.810 | 26,275.588 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 |
| Peace II Desalter Production | 14.555 | 448.690 | 1,154.052 | 1,527.215 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 |
| Appropriative Pool DRO Contribution | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) |
| Re-Operation Water** | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) |
| Non-Agricultural Pool Assessment | 0.000 | 0.000 | 0.000 | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) |
| Remaining DRO | 6,742.552 | 7,489.990 | 5,662.862 | 4,567.803 | 16,765.000 | 16,765.000 | 16,765.000 | 16,765.000 | 16,765.000 |

| Production Year | 2022-23 | 2023-24 | 2024-25 | 2025-26 | 2026-27 | 2027-28 | 2028-29 | 2029-30 |
|--------------------------------------|---------------------|---------------------|---------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Peace I Desalter Production | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 |
| Peace II Desalter Production | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 |
| Appropriative Pool "DRO Contribution | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) |
| Re-Operation Water** | (12,500.000) | (12,500.000) | (12,500.000) | (5,000.000) | (5,000.000) | (5,000.000) | (5,000.000) | (5,000.000) |
| Non-Agricultural Pool Assessment | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) |
| Remaining DRO | 16,765.000 | 16,765.000 | 16,765.000 | 24,265.000 | 24,265.000 | 24,265.000 | 24,265.000 | 24,265.000 |

Attachment: Peace II Agreement, Section 6.2(b)(ii)

Allocation of Appropriative Pool Desalter Replenishment Obligation (DRO) Contributions (by agency)

Production Year 2013-14 Desalter Replenishment Obligation (DRO) Contribution:

10,000.000 AF

| Appropriative Pool Party | Production Year 2013/14 Common Data (Headings from Approved 2014/2015 Assessment Package) | | | Methodology for 85/15 split between shares of Operating Safe Yield and % of Land Use Conversions | | |
|---|--|---|--|--|---|---|
| | a | b | c=%b | d = (DRO Contrib*.85)*a | e = (DRO Contrib*.15)*c | f = d + e |
| | Percent of Operating Safe Yield (Column 2A) | Land Use Conversions (Page 12A)* | Percent of Land Use Conversions | 85% DRO Contribution Based on Percent of Operating Safe Yield | 15% DRO Contribution Based on Percent of Land Use Conversions | Desalter Replenishment Obligation Contribution |
| Arrowhead Mtn Spring Water Co | 0.000% | 0.000 | 0.000% | 0.000 | 0.000 | 0.000 |
| Chino Hills, City of | 3.851% | 1,133.906 | 4.334% | 327.335 | 65.013 | 392.348 |
| Chino, City of | 7.357% | 7,623.064 | 29.138% | 625.345 | 437.074 | 1,062.419 |
| Cucamonga Valley Water District | 6.601% | 598.364 | 2.287% | 561.085 | 34.308 | 595.393 |
| Fontana Union Water Company | 11.657% | 0.000 | 0.000% | 990.845 | 0.000 | 990.845 |
| Fontana Water Company | 0.002% | 834.000 | 3.188% | 0.170 | 47.818 | 47.988 |
| Fontana, City of | 0.000% | 0.000 | 0.000% | 0.000 | 0.000 | 0.000 |
| Golden State Water Company | 0.750% | 0.000 | 0.000% | 63.750 | 0.000 | 63.750 |
| Jurupa Community Services District | 3.759% | 13,876.196 | 53.040% | 319.515 | 795.602 | 1,115.117 |
| Marygold Mutual Water Company | 1.195% | 0.000 | 0.000% | 101.575 | 0.000 | 101.575 |
| Monte Vista Irrigation Company | 1.234% | 0.000 | 0.000% | 104.890 | 0.000 | 104.890 |
| Monte Vista Water District | 8.797% | 55.075 | 0.211% | 747.745 | 3.158 | 750.903 |
| Niagara Bottling, LLC | 0.000% | 0.000 | 0.000% | 0.000 | 0.000 | 0.000 |
| Nicholson Trust | 0.007% | 0.000 | 0.000% | 0.595 | 0.000 | 0.595 |
| Norco, City of | 0.368% | 0.000 | 0.000% | 31.280 | 0.000 | 31.280 |
| Ontario, City of | 20.742% | 2,041.095 | 7.802% | 1,763.070 | 117.028 | 1,880.098 |
| Pomona, City of | 20.454% | 0.000 | 0.000% | 1,738.590 | 0.000 | 1,738.590 |
| San Antonio Water Company | 2.748% | 0.000 | 0.000% | 233.580 | 0.000 | 233.580 |
| San Bernardino, County of (Shooting Park) | 0.000% | 0.000 | 0.000% | 0.000 | 0.000 | 0.000 |
| Santa Ana River Water Company | 2.373% | 0.000 | 0.000% | 201.705 | 0.000 | 201.705 |
| Upland, City of | 5.202% | 0.000 | 0.000% | 442.170 | 0.000 | 442.170 |
| West End Consolidated Water Co | 1.728% | 0.000 | 0.000% | 146.880 | 0.000 | 146.880 |
| West Valley Water District | 1.175% | 0.000 | 0.000% | 99.875 | 0.000 | 99.875 |
| | 100.000% | 26,161.700 | 100.000% | 8,500.000 | 1,500.000 | 10,000.000 |

Attachment: Peace II Agreement, Section 6.2 (b)(iii)
Allocation of Appropriative Pool Remaining Desalter Replenishment Obligation (RDRO)

| | |
|--|---------------------|
| Production Year 2013-14: | acre-feet |
| CDA Production - Peace I Allocation | 29,227.997 |
| CDA Production - Peace II Allocation | 14.555 |
| Total Desalter Replenishment Obligation (Total DRO): | 29,242.552 |
| Desalter Replenishment Obligation Contribution (DROC) | (10,000.000) |
| Re-Operation Water | (12,500.000) |
| RDRO | 6,742.552 |

| Appropriative Pool Party | Operating Safe Yield | Production Year 2013/14 Common Data (From Approved 2014/2015 Assessment Package - Appendix A) | | | | | Methodology for Calculation of Adjusted Physical Production (APP) | Methodology for Calculation of "RDRO" |
|---|---------------------------------------|--|-----------------------------|------------------------|-------------------------------|-------------------|---|--|
| | a | b | c | d | e | f | APP = [b+(c*50%)+d+e+f] | Individual Party RDRO = ((a+APP)/(Total a + Total APP)) * RDRO |
| | Assessment Package Page 2A: Column 2D | Physical Production | Voluntary Agreements (w/Ag) | Assignments (w/Non-Ag) | Storage and Recovery Programs | Other Adjustments | *Note: APP for City of Chino does not include "Other Adjustments" for this period | |
| Arrowhead Mtn Spring Water Co | 0.000 | 379.111 | 0.000 | 0.000 | 0.000 | 0.000 | 379.111 | 15.905 |
| Chino Hills, City of | 2,111.422 | 2,150.925 | (286.221) | 0.000 | 0.000 | 5,359.300 | 7,367.115 | 397.669 |
| Chino, City of | 4,033.857 | 6,725.430 | (6,686.440) | (104.278) | 0.000 | 65.288 | 3,277.932 | 306.764 |
| Cucamonga Valley Water District | 3,619.454 | 16,121.550 | 0.000 | 0.000 | 0.000 | 0.000 | 16,121.550 | 828.227 |
| Fontana Union Water Company | 6,391.736 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 268.163 |
| Fontana Water Company | 1.000 | 15,377.579 | 0.000 | 0.000 | 0.000 | 0.000 | 15,377.579 | 645.203 |
| Fontana, City of | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| Golden State Water Company | 411.476 | 736.362 | 0.000 | 0.000 | 0.000 | 0.000 | 736.362 | 48.157 |
| Jurupa Community Services District | 2,061.118 | 18,406.630 | 0.000 | (379.499) | 0.000 | (8.784) | 18,018.347 | 842.427 |
| Marygold Mutual Water Company | 655.317 | 1,314.734 | 0.000 | 0.000 | 0.000 | 0.000 | 1,314.734 | 82.653 |
| Monte Vista Irrigation Company | 676.759 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 28.393 |
| Monte Vista Water District | 4,823.954 | 12,521.892 | (151.480) | 0.000 | 0.000 | (5,371.667) | 7,074.485 | 499.195 |
| Niagara Bottling, LLC | 0.000 | 1,342.588 | 0.000 | 0.000 | 0.000 | 0.000 | 1,342.588 | 56.328 |
| Nicholson Trust | 4.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.168 |
| Norco, City of | 201.545 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 8.456 |
| Ontario, City of | 11,373.816 | 21,980.342 | (4,423.101) | (1,855.196) | 0.000 | 0.000 | 17,911.096 | 1,228.639 |
| Pomona, City of | 11,215.852 | 12,909.293 | 0.000 | 0.000 | 0.000 | 0.000 | 12,909.293 | 1,012.163 |
| San Antonio Water Company | 1,506.888 | 1,159.242 | 0.000 | 0.000 | 0.000 | 0.000 | 1,159.242 | 111.857 |
| San Bernardino, County of (Shooting Park) | 0.000 | 16.390 | 0.000 | 0.000 | 0.000 | 0.000 | 16.390 | 0.688 |
| Santa Ana River Water Company | 1,301.374 | 0.000 | 0.000 | 0.000 | 0.000 | 48.515 | 48.515 | 56.634 |
| Upland, City of | 2,852.401 | 2,822.046 | 0.000 | 0.000 | 0.000 | 0.000 | 2,822.046 | 238.070 |
| West End Consolidated Water Co | 947.714 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 39.761 |
| West Valley Water District | 644.317 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 27.032 |
| | 54,834.000 | 113,964.114 | (11,552.242) | (2,338.973) | 0.000 | 92.652 | 105,876.384 | 6,742.552 |

ATTACHMENT B
[PROPOSED] ORDER

EXHIBIT B

Attachment: Peace Agreement, Section 7.2 (e)(ii)
 Schedule for Use of Re-Operation Water**, and
 Calculation of Remaining Desalter Replenishment Obligation (DRO)
 Production from 2017-18 through 2029-30 is estimated

| Production Year | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 | 2021-22 |
|-------------------------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Peace I Desalter Production | 29,227.997 | 29,541.300 | 27,008.810 | 26,275.588 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 |
| Peace II Desalter Production | 14.555 | 448.690 | 1,154.052 | 1,527.215 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 |
| Appropriative Pool DRO Contribution | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) |
| Re-Operation Water** | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) |
| Non-Agricultural Pool Assessment | 0.000 | 0.000 | 0.000 | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) |
| Remaining DRO | 6,742.552 | 7,489.990 | 5,662.862 | 4,567.803 | 16,765.000 | 16,765.000 | 16,765.000 | 16,765.000 | 16,765.000 |

| Production Year | 2022-23 | 2023-24 | 2024-25 | 2025-26 | 2026-27 | 2027-28 | 2028-29 | 2029-30 |
|--------------------------------------|---------------------|---------------------|---------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Peace I Desalter Production | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 |
| Peace II Desalter Production | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 |
| Appropriative Pool "DRO Contribution | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) |
| Re-Operation Water** | (12,500.000) | (12,500.000) | (12,500.000) | (5,000.000) | (5,000.000) | (5,000.000) | (5,000.000) | (5,000.000) |
| Non-Agricultural Pool Assessment | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) |
| Remaining DRO | 16,765.000 | 16,765.000 | 16,765.000 | 24,265.000 | 24,265.000 | 24,265.000 | 24,265.000 | 24,265.000 |

**ATTACHMENT C
[PROPOSED] ORDER**

EXHIBIT A

PROPOSED AMENDMENT TO THE NON-AGRICULTURAL POOL POOLING PLAN

1. Section 6 of Exhibit G to the Judgment (the NAP Pooling Plan) is hereby amended and restated as follows:

6. Assignment. Rights herein decreed are appurtenant to that land and are only assignable with the land for overlying use thereon; provided, however (a) 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, and (b) the members of the pool shall have the right to Transfer or lease their quantified production rights within the pool or to Watermaster in conformance with the procedures described in the Peace Agreement between the parties therein, dated June 29, 2000 for the term of the Peace Agreement. Any production pursuant to any such agency agreement (1) shall not constitute production in the Appropriative Pool for the purpose of calculating any assessments imposed on members of the Appropriative Pool, including without limitation replenishment assessments; and (2) shall constitute production in the Non-Agricultural Pool by the assignor for the purpose of calculating any assessments imposed on members of the Non-Agricultural Pool, with the continuing dedications by members of the Non-Agricultural Pool of 10% of their annual share of Operating Safe Yield to desalter replenishment pursuant to Section 5(c) being the sole and exclusive method by which such members shall be required to contribute at any time to desalter production or desalter replenishment.

2. Section 9 of Exhibit G to the Judgment (the NAP Pooling Plan) is hereby amended and restated as follows:

9. Physical Solution Transfers. All overlying rights are appurtenant to the land and cannot be assigned or conveyed separate or apart therefrom except that for the term of the Peace Agreement the members of the Overlying (Non-Agricultural) Pool shall have the discretionary right to Transfer or lease their quantified Production rights and carry-over water held in storage accounts in quantities that each member may from time to time individually determine as Transfers in furtherance of the Physical Solution: (i) within the Overlying (Non-Agricultural) Pool; (ii) to Watermaster in conformance with the procedures described in the Peace Agreement between the Parties therein, dated June 29, 2000; (iii) in conformance with the procedures described in Paragraph I of the Purchase and Sale Agreement for the Purchase of Water by Watermaster from Overlying (Non-Agricultural Pool dated June 30, 2007; or (iv) to Watermaster and thence to members of the Appropriative Pool in accordance with the following guidelines and those procedures Watermaster may further provide in Watermaster's Rules and Regulations:

(a) 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. The Pool Committee of the Overlying (Non-Agricultural) Pool may, by affirmative action of its members from time to time, establish a price for such water or a method pursuant to which such price will be established. By January 31 of each year, Watermaster shall provide a Notice of Availability of each Appropriator's pro-rata share of such water;

(b) Except as they may be limited by paragraph 9(e) below, each member of the Appropriative Pool will have, in their discretion, a right to purchase its pro-rata share of the supply made available from the Overlying (Non-Agricultural) Pool at the price at which the water is being offered. Each Appropriative Pool member's pro-rata share of the available supply will be based on each Producer's combined total share of Operating Safe Yield and the previous year's actual Production by each party;

(c) If any member of the Appropriative Pool fails to irrevocably commit to their allocated share by March 1 of each year, its share of the Overlying (Non-Agricultural) Pool water will be made available to all other members of the Appropriative Pool according to the same proportions as described in 9(b) above and at the price at which the water is being offered. Each member of the Appropriative Pool shall complete its payment for its share of water made available by June 30 of each year.

(d) Commensurate with the cumulative commitments by members of the Appropriative Pool pursuant to (b) and (c) above, Watermaster will purchase the surplus water made available by the Overlying (Non-Agricultural) Pool water on behalf of the members of the Appropriative Pool on an annual basis at the price at which the water is being offered and each member of the Appropriative Pool shall complete its payment for its determined share of water made available by June 30 of each year.

(e) Any surplus water cumulatively made available by all members of the Overlying (Non-Agricultural) Pool that is not purchased by Watermaster after completion of the process set forth herein will be pro-rated among the members of the Pool in proportion to the total quantity offered for transfer in accordance with this provision and may be retained by the Overlying (Non-Agricultural) Pool member without prejudice to the rights of the members of the Pool to make further beneficial use or transfer of the available surplus.

(f) Each Appropriator shall only be eligible to purchase their pro-rata share under this procedure if the party is: (i) current on all their assessments; and (ii) in compliance with the OBMP.

(g) The right of any member of the Overlying (Non-Agricultural) Pool to transfer water in accordance with this Paragraph 9(a)-(c) in any year is dependent upon Watermaster making a finding that the member of the Overlying (Non-Agricultural) Pool is using recycled water where it is both physically available and appropriate for the designated end use in lieu of pumping groundwater.

(h) Nothing herein shall be construed to affect or limit the rights of any Party to offer or accept an assignment as authorized by the Judgment Exhibit "G" paragraph 6 above, or to affect the rights of any Party under a valid assignment.

3. A new Section 10 of Exhibit G to the Judgment (the NAP Pooling Plan) is inserted as follows:

10. Elective Transfers for Desalter Replenishment. Any member of the Non-Agricultural Pool (including without limitation any member of the Non-Agricultural Pool that is also a member of the Appropriative Pool) may elect to transfer (a) some or all of the annual share of Operating Safe Yield of the transferor in and for the year in which the transfer occurs (except that such transfer shall exclude any dedication to Watermaster required by Section 5(c) hereof), and (b) any quantity of water held in storage by the transferor (including without limitation carryover and excess carryover) to any member of the Appropriative Pool, in either case at any price that the transferor and transferee may deem appropriate and for the purpose of satisfying the transferee's desalter replenishment obligation. Any such transfer shall be effective upon delivery by the transferor or transferee to Watermaster staff of written notice of such transfer in the form attached hereto as Form A. The transferee's desalter replenishment obligation shall be credited by the number of acre feet so transferred.

4. Existing Section 10 of Exhibit G to the Judgment (the NAP Pooling Plan) is renumbered as Section 11 as follows:

11. Rules. The Pool Committee shall adopt rules for administering its program and in amplification of the provisions, but not inconsistent with, this pooling plan.

FORM A

NOTICE OF ELECTIVE TRANSFER FOR DESALTER REPLENISHMENT

QUANTITY:

_____ Acre-Feet of Annual Share of Operating Safe Yield for Current Year

_____ Acre-Feet of Carryover

_____ Acre-Feet of Excess Carryover

Transferor and Transferee hereby provide written notice to Watermaster staff of a transfer by the Transferor, in its capacity as a member of the Non-Agricultural Pool, to Transferee, in its capacity as a member of the Appropriate Pool, of water in the quantity and of the type set forth above pursuant to Section 10 of Exhibit G to the Judgment.

| | |
|--|---|
| TRANSFEROR NAME: _____ By: _____ Name: _____ Its: _____ Dated: _____ | TRANSFEEE NAME: _____ By: _____ Name: _____ Its: _____ Dated: _____ |
|--|---|

3-15-19

IT IS SO ORDERED
Stanford E. Reichert

JUDGE
STANFORD E. REICHERT

EXHIBIT C

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17 Attorneys for Defendant and Appellant
18 CUCAMONGA VALLEY WATER DISTRICT

19 [Other Attorneys on Next Page]

20 SUPERIOR COURT OF THE STATE OF CALIFORNIA
21 COUNTY OF SAN BERNARDINO

22 CHINO BASIN MUNICIPAL WATER
23 DISTRICT,

24 Petitioner,

25 v.

26 CITY OF CHINO, et al.,

27 Defendants.

Exempt from Filing Fees
Per Gov't Code § 6103

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION

MAR 15 2019

BY 
ASHLEY LAWLESS, DEPUTY

Case No. RCVRS 51010
Judge: Stanford E. Reichert

~~[Proposed]~~ ORDER

[filed with Notice of Mot. and Mot. to
Approve Amendments to Appropriative
Pool Pooling Plan and Ct.-Approved
Management Agreements; and Decl. of
Sarah Christopher Foley]

Date: March 15, 2019
Time: 1:30 p.m.
Dept.: S35

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27
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- 2 -

[Proposed] Order

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PROPOSED ORDER

On March 15, 2019, in Department S35 of the above-entitled Court, the Motion to Approve Amendments to Appropriative Pool Pooling Plan and Court-Approved Management Agreements by Defendants and Appellants Cucamonga Valley Water District, Monte Vista Water District, and City of Pomona and Defendants and Respondents City of Chino, Jurupa Community Services District, and City of Ontario ("Motion to Approve") came on for hearing, the Honorable Stanford E. Reichert, Judge presiding. The parties stated their appearances on the record.

After consideration of the papers filed in connection with the Motion to Approve and arguments of counsel, the Court hereby:

(1) Approves amendments to the Appropriative Pool Pooling Plan, ~~the Peace Agreement, and the Peace II Agreement~~ ("Appropriative Pool Pooling Plan ~~and~~ CAMA Amendments") ~~that are attached hereto, and~~ *the amendments attached hereto.*

2. Watermaster shall proceed in accordance with Resolution 2017-03 and the documents attached thereto.

~~(2) Orders Watermaster to implement the Judgment in accordance with the Appropriative Pool Pooling Plan and CAMA Amendments that are attached hereto.~~

3. Directing Watermaster to proceed to redetermine Safe Yield as set forth on pages 15-18 of the Court's April 28, 2017, order.
IT IS SO ORDERED.

Dated: _____, __, 2019

Honorable Stanford E. Reichert
Judge of the Superior Court

4. Except as explicitly set forth above the motion is denied.

Date: 3-15-19



IT IS SO ORDERED
Stanford E. Reichert

STANFORD E. REICHERT

ATTACHMENT

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- 4 -

~~Proposed~~ Order

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Exhibit A

Proposed Changes to Appropriative Pool Pooling Plan and CAMA

1. Appropriative Pool Pooling Plan. The introductory sentence to Exhibit H, ¶10 of the Judgment is amended to read as follows:

10. Unallocated Safe Yield Water. To the extent that, in any ~~year~~ ~~five years~~, any portion of the share of Safe Yield allocated to the Overlying (Agricultural) Pool is not produced, such water shall be available for reallocation to members of the Appropriative Pool, as follows:

2. Early Transfer

A. Section 1.1(o) of the Peace Agreement is amended to read as follows:

(o) "Early Transfer" means the reallocation of Safe Yield not Produced by the Agricultural Pool to the Appropriative Pool on an annual basis ~~after the allocations in subdivisions (a)(1) and (a)(2) of~~ ~~rather than according to the five year increment described in Paragraph 10 of Exhibit "H" of the Judgment;~~

B. Section 5.3(g) of the Peace Agreement is amended to read as follows:

(g) Watermaster shall approve an "Early Transfer" of water to the Appropriative Pool ~~in an amount not less than 32,800 acre-feet per year~~ that is the ~~expected approximate~~ quantity of water not Produced by the Agricultural Pool ~~on an annual basis~~ ~~The quantity of water subject to Early Transfer under this paragraph shall be the greater of (i) 32,800 acre-feet of (ii) 32,800 acre-feet plus the actual quantity of water not Produced by the Agricultural Pool for that Fiscal Year~~ that is remaining after all the land use conversions are satisfied pursuant to 5.3(h) below.

- (i) The Early Transfer water shall be annually allocated among the members of the Appropriative Pool in accordance with their pro-rata share of the initial Safe Yield.
- (ii) The Transfer shall not limit the Production right of the Agricultural Pool under the Judgment to Produce up to 82,800 acre-feet of water in any year or 414,000 acre-feet in any five years as provided in the Judgment.
- (iii) The combined Production of all parties to the Judgment shall not cause a Replenishment assessment on the members of the Agricultural Pool. The Agricultural Pool shall be responsible for any Replenishment obligation created by the Agricultural Pool Producing more than 414,000 acre-feet in any five-year period.
- (iv) The parties to the Judgment and Watermaster shall Produce water in accordance with the Operating Safe Yield and shall procure sufficient quantities of Replenishment Water to satisfy over-Production requirements, whatever they may be, and avoid Material Physical Injury to any party to the Judgment or the Basin;

1
Proposed Changes to Appropriative Pool Pooling Plan and CAMA
C:\Users\Tomhunn\OneDrive\Safe yield reset\Settlement\Exhibit A - Proposed Amendments to Appropriative Pool Pooling Plan and CAMA 11-21-18 (clean).docx

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(v) Nothing herein shall be construed as modifying the procedures or voting rights within or by the members of the Agricultural Pool.

3. **Conversion Claims.** Subparagraph (b)(3)(i) of Exhibit H, ¶ 10 of the Judgment is amended to read as follows:

(i) For the term of the Peace Agreement *and any extension thereof*, in any year in which sufficient unallocated Safe Yield from the Overlying (Agricultural) Pool is available for such conversion claims, Watermaster shall allocate to each appropriator with a conversion claim 2.0 acre-feet of unallocated Safe Yield water for each converted acre for which conversion has been approved and recorded by the Watermaster.

4. **Controlled Overdraft.** Pursuant to section 7.2(e)(ii) of the Peace II Agreement, 175,000 acre-feet of controlled overdraft (Re-Operation water) will be allocated to Desalter replenishment over a 17-year period, beginning in 2013-14 and ending in 2029-30, according to the schedule attached as Exhibit A.

5. **New Yield.** Section 7.1 of the Peace II Agreement, entitled "New Yield Attributable to Desalters," is deleted. It is replaced by new section 6.2(b)(ii) as set forth in section 6 below.

6. **Desalter Replenishment.** Section 6.2(b) of the Peace II Agreement is amended to read as follows:

(b) To the extent available credits are insufficient to fully offset the quantity of groundwater production attributable to the Desalters, Watermaster will use water or revenue obtained by levying the following assessments among the members of the Overlying (Non-Agricultural) Pool and the Appropriative Pool to meet any remaining replenishment obligation as follows.

(i) A Special OBMP Assessment against the Overlying (Non-Agricultural) Pool as more specifically authorized and described in amendment to Exhibit "G" paragraph ~~8(e)~~ 5(c) to the Judgment will be dedicated by Watermaster to further off-set replenishment of the Desalters. However, to the extent there is no remaining replenishment obligation attributable to the Desalters in any year after applying the off-sets set forth in 6.2(a), the OBMP Special Assessment levied by Watermaster will be distributed as provided in section 9.2 below. The Special OBMP Assessment will be assessed pro-rata on each member's share of Safe Yield, followed by

(ii) *The members of the Appropriative Pool will contribute a total of 10,000 afy toward Desalter replenishment, allocated among Appropriative Pool members as follows:*

(1) *85% of the total (8,500 afy) will be allocated according to the Operating Safe Yield percentage of each Appropriative Pool member; and*

(2) *15% of the total (1,500 afy) will be allocated according to each land use conversion agency's percentage of the total land use conversion claims, based on the actual land use conversion allocations of the year.*

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The annual desalter replenishment obligation contribution of each Appropriative Pool member will be calculated using the following formula:

$$\text{Desalter replenishment obligation contribution} = (8,500 * \% \text{ Appropriator's share of total initial 49,834 afy Operating Safe Yield}) + (1,500 * \% \text{ Appropriator's proportional share of that year's total conversion claims})$$

A sample calculation of the desalter replenishment obligation contribution for each Appropriative Pool member is shown on Exhibit __ to this Peace II Agreement, as amended.

(iii) (iii) A Replenishment Assessment against the Appropriative Pool for any remaining Desalter replenishment obligation after applying both 6(b)(i) and 6(b)(ii), allocated pro-rata to each Appropriative Pool member according to the combined total of the member's share of Operating Safe Yield and the member's Adjusted Physical Production, as defined below. pro-rata based on each Producer's combined total share of Operating Safe Yield and the previous year's actual production. Desalter Production is excluded from this calculation. A sample calculation of the allocation of the remaining desalter obligation is shown in Exhibit __ to this Peace II Agreement. However, if there is a material reduction in the net cost of Desalter product water to the purchasers of product water, Watermaster may re-evaluate whether to continue the exclusion of Desalter Production but only after giving due regard to the contractual commitment of the parties.

(iv) Adjusted Physical Production is the Appropriative Pool member's total combined physical production (i.e., all groundwater pumped or produced by the Appropriative Pool member's groundwater wells in the Chino Basin, including water transferred from the Non-Agricultural Pool under Exhibit G, ¶9 of the Judgment), with the following adjustments:

(1) In the case of assignments among Appropriative Pool members, or between Appropriative Pool members and Non-Agricultural Pool members under Exhibit G, ¶6 of the Judgment, resulting in pumping or production by one party to the Judgment for use by another party to the Judgment, the production for purposes of Adjusted Physical Production shall be assigned to the party making beneficial use of the water, not the actual producer.

(2) Production offset credits pursuant to voluntary agreements under section 5.3(i) of the Peace Agreement are calculated at 50% of the total voluntary agreement credit in the determination of Adjusted Physical Production for an Appropriative Pool member participating in a voluntary agreement for that year. In the determination of Adjusted Physical Production, the voluntary agreement credit is subtracted from physical production. Reduction of the voluntary agreement credit from 100% to 50% is applicable only to the calculation of the Adjusted Physical Production hereunder; but in all other applications, the voluntary agreement credit shall remain unchanged (i.e. remain at 100%).

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(3) Production associated with approved storage and recovery programs (e.g., Dry Year Yield recovery program with MWD) is not counted in Adjusted Physical Production, except for in-lieu participation in such programs: in-lieu put quantities shall be added to physical production, and in-lieu take quantities shall be subtracted from physical production.

(4) Metered pump-to-waste Production that is determined by Watermaster to be subsequently recharged to the groundwater basin is deducted from physical production; unmetered pump-to-waste production that is determined by Watermaster not to be subsequently recharged to the groundwater basin is added to physical production.

(5) The Appropriative Pool may approve, by unanimous vote, the inclusion of other items in the determination of Adjusted Physical Production, with the exception of Non-Agricultural Pool water assigned or transferred under Exhibit G, ¶6 or ¶10 of the Judgment.

(v) Any member of the Non-Agricultural Pool that is also a member of the Appropriative Pool may elect to transfer (a) some or all of the annual share of Operating Safe Yield of the transferor in and for the year in which the transfer occurs (except that such transfer shall exclude any dedication to the Watermaster required by section 6.2(b)(1)), and (b) any quantity of water held in storage by the transferor (including without limitation carryover and excess carryover) to any member of the Appropriative Pool, in either case at any price that the transferor and transferee may deem appropriate and for the purpose of satisfying the transferee's desalter replenishment obligation. The transferee's desalter replenishment obligation shall be credited by the number of acre-feet so transferred.

(vi) ~~(iii)~~ The quantification of any Party's share of Operating Safe Yield does not include either land use conversions or Early Transfers.

7. Allocation of Non-Agricultural Pool OBMP Special Assessment. The introductory sentence of section 9.2(a) of the Peace II Agreement is amended to read as follows:

a. For a period of ten years from the effective date of the Peace II Measures, any water (or financial equivalent) that may be contributed from the Overlying (Non-Agricultural) Pool in accordance with paragraph 8(e)-5(c) of Exhibit G to the Judgment (as amended) will be apportioned among the members of the Appropriative Pool in each year as follows:

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Attachment: Peace Agreement, Section 7.2 (e)(ii)
 Schedule for Use of Re-Operation Water**, and
 Calculation of Remaining Desalter Replenishment Obligation (DRO)
 Production from 2017-18 through 2029-30 is estimated

| Production Year | 2013-14 | 2014-15 | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 2020-21 | 2021-22 |
|---|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Peace I Desalter Production | 29,227.997 | 29,541.300 | 27,008.810 | 26,275.588 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 |
| Peace II Desalter Production | 14.555 | 448.690 | 1,154.052 | 1,527.215 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 |
| Appropriative Pool DRO Contribution | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) |
| Re-Operation Water** Non-Agricultural Pool Assessment | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) | (12,500.000) |
| | 0.000 | 0.000 | 0.000 | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) |
| Remaining DRO | 6,742.552 | 7,489.990 | 5,662.862 | 4,567.803 | 16,765.000 | 16,765.000 | 16,765.000 | 16,765.000 | 16,765.000 |

| Production Year | 2022-23 | 2023-24 | 2024-25 | 2025-26 | 2026-27 | 2027-28 | 2028-29 | 2029-30 |
|---|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Peace I Desalter Production | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 | 30,000.000 |
| Peace II Desalter Production | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 | 10,000.000 |
| Appropriative Pool "DRO Contribution | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) | (10,000.000) |
| Re-Operation Water** Non-Agricultural Pool Assessment | (12,500.000) | (12,500.000) | (12,500.000) | (5,000.000) | (5,000.000) | (5,000.000) | (5,000.000) | (5,000.000) |
| | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) | (735.000) |
| Remaining DRO | 16,765.000 | 16,765.000 | 16,765.000 | 24,265.000 | 24,265.000 | 24,265.000 | 24,265.000 | 24,265.000 |

- 9 -

Proposed Order

28 27 26 25 24 23 22 21 20 19 18 17 16 15 14 13 12 11 10 9 8 7 6 5 4 3 2 1

Attachment: Peace II Agreement, Section 6.2(b)(ii)
Allocation of Appropriative Pool Desalter Replenishment Obligation (DRO) Contributions (by agency)

Production Year 2013-14 Desalter Replenishment Obligation (DRO) Contribution: **10,000,000 AF**

| Appropriative Pool Party | Production Year 2013/14 Common Data (Headings from Approved 2014/2015 Assessment Package) | | | Methodology for 85/15 split between shares of Operating Safe Yield and % of Land Use Conversions | | |
|---|--|---|--|--|---|---|
| | a | b | c = %b | d = (DRO Contrib*.85)*a | e = (DRO Contrib*.15)*c | f = d + e |
| | Percent of Operating Safe Yield (Column 2A) | Land Use Conversions (Page 12A)* | Percent of Land Use Conversions | 85% DRO Contribution Based on Percent of Operating Safe Yield | 15% DRO Contribution Based on Percent of Land Use Conversions | Desalter Replenishment Obligation Contribution |
| Arrowhead Mtn Spring Water Co | 0.000% | 0.000 | 0.000% | 0.000 | 0.000 | 0.000 |
| Chino Hills, City of | 3.851% | 1,133.906 | 4.334% | 327.335 | 65.013 | 392.348 |
| Chino, City of | 7.357% | 7,623.064 | 29.138% | 625.345 | 437.074 | 1,062.419 |
| Cucamonga Valley Water District | 6.601% | 598.364 | 2.287% | 561.085 | 34.308 | 595.393 |
| Fontana Union Water Company | 11.657% | 0.000 | 0.000% | 990.845 | 0.000 | 990.845 |
| Fontana Water Company | 0.002% | 834.000 | 3.188% | 0.170 | 47.818 | 47.988 |
| Fontana, City of | 0.000% | 0.000 | 0.000% | 0.000 | 0.000 | 0.000 |
| Golden State Water Company | 0.750% | 0.000 | 0.000% | 63.750 | 0.000 | 63.750 |
| Jurupa Community Services District | 3.759% | 13,876.196 | 53.040% | 319.515 | 795.602 | 1,115.117 |
| Marygold Mutual Water Company | 1.195% | 0.000 | 0.000% | 101.575 | 0.000 | 101.575 |
| Monte Vista Irrigation Company | 1.234% | 0.000 | 0.000% | 104.890 | 0.000 | 104.890 |
| Monte Vista Water District | 8.797% | 55.075 | 0.211% | 747.745 | 3.158 | 750.903 |
| Niagara Bottling, LLC | 0.000% | 0.000 | 0.000% | 0.000 | 0.000 | 0.000 |
| Nicholson Trust | 0.007% | 0.000 | 0.000% | 0.595 | 0.000 | 0.595 |
| Norco, City of | 0.368% | 0.000 | 0.000% | 31.280 | 0.000 | 31.280 |
| Ontario, City of | 20.742% | 2,041.095 | 7.802% | 1,763.070 | 117.028 | 1,880.098 |
| Pomona, City of | 20.454% | 0.000 | 0.000% | 1,738.590 | 0.000 | 1,738.590 |
| San Antonio Water Company | 2.748% | 0.000 | 0.000% | 233.580 | 0.000 | 233.580 |
| San Bernardino, County of (Shooting Park) | 0.000% | 0.000 | 0.000% | 0.000 | 0.000 | 0.000 |
| Santa Ana River Water Company | 2.373% | 0.000 | 0.000% | 201.705 | 0.000 | 201.705 |
| Upland, City of | 5.202% | 0.000 | 0.000% | 442.170 | 0.000 | 442.170 |
| West End Consolidated Water Co | 1.728% | 0.000 | 0.000% | 146.880 | 0.000 | 146.880 |
| West Valley Water District | 1.175% | 0.000 | 0.000% | 99.875 | 0.000 | 99.875 |
| | 100.000% | 26,161.700 | 100.000% | 8,500.000 | 1,500.000 | 10,000.000 |

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 Order

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Attachment: Peace II Agreement, Section 6.2 (b)(iii)
Allocation of Appropriative Pool Remaining Desalter Replenishment Obligation (RDRO)

| | |
|---|---------------------|
| Production Year 2013-14: | acre-feet |
| CDA Production - Peace I Allocation | 29,227.997 |
| CDA Production - Peace II Allocation | 14.555 |
| Total Desalter Replenishment Obligation (Total DRO): | 29,242.552 |
| Desalter Replenishment Obligation Contribution (DROC) | (10,000.000) |
| Re-Operation Water | (12,500.000) |
| RDRO | 6,742.552 |

| Appropriative Pool Party | Operating Safe Yield | Production Year 2013/14 Common Data (From Approved 2014/2015 Assessment Package - Appendix A) | | | | | Methodology for Calculation of Adjusted Physical Production (APP) | Methodology for Calculation of "RDRO" |
|---|---------------------------------------|--|-----------------------------|------------------------|-------------------------------|-------------------|---|--|
| | a | b | c | d | e | f | APP = [b+(c*50%)+d+e+f] | Individual Party RDRO = ((a+APP)/(Total a + Total APP)) * RDRO |
| | Assessment Package Page 2A: Column 2D | Physical Production | Voluntary Agreements (w/Ag) | Assignments (w/Non-Ag) | Storage and Recovery Programs | Other Adjustments | *Note: APP for City of Chino does not include "Other Adjustments" for this period | |
| Arrowhead Mtn Spring Water Co | 0.000 | 379.111 | 0.000 | 0.000 | 0.000 | 0.000 | 379.111 | 15.905 |
| Chino Hills, City of | 2,111.422 | 2,150.925 | (286.221) | 0.000 | 0.000 | 5,359.300 | 7,367.115 | 397.669 |
| Chino, City of | 4,033.857 | 6,725.430 | (6,686.440) | (0.4778) | 0.000 | 65.288 | 3,277.932 | 306.764 |
| Cucamonga Valley Water District | 3,619.454 | 16,121.550 | 0.000 | 0.000 | 0.000 | 0.000 | 16,121.550 | 828.227 |
| Fontana Union Water Company | 6,391.736 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 268.163 |
| Fontana Water Company | 1.000 | 15,377.579 | 0.000 | 0.000 | 0.000 | 0.000 | 15,377.579 | 645.203 |
| Fontana, City of | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 |
| Golden State Water Company | 411.476 | 736.362 | 0.000 | 0.000 | 0.000 | 0.000 | 736.362 | 48.157 |
| Jurupa Community Services District | 2,061.118 | 18,406.630 | 0.000 | (279.499) | 0.000 | (8,754) | 18,018.347 | 842.427 |
| Marygold Mutual Water Company | 655.317 | 1,314.734 | 0.000 | 0.000 | 0.000 | 0.000 | 1,314.734 | 82.653 |
| Monte Vista Irrigation Company | 676.759 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 28.393 |
| Monte Vista Water District | 4,823.954 | 12,521.892 | (1,314.880) | 0.000 | 0.000 | (5,771.667) | 7,074.485 | 499.195 |
| Niagara Bottling, LLC | 0.000 | 1,342.588 | 0.000 | 0.000 | 0.000 | 0.000 | 1,342.588 | 56.328 |
| Nicholson Trust | 4.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.168 |
| Norco, City of | 201.545 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 8.456 |
| Ontario, City of | 11,373.816 | 21,980.342 | (6,428.101) | (1,852.154) | 0.000 | 0.000 | 17,911.096 | 1,228.639 |
| Pomona, City of | 11,215.852 | 12,909.293 | 0.000 | 0.000 | 0.000 | 0.000 | 12,909.293 | 1,012.163 |
| San Antonio Water Company | 1,506.888 | 1,159.242 | 0.000 | 0.000 | 0.000 | 0.000 | 1,159.242 | 111.857 |
| San Bernardino, County of (Shooting Park) | 0.000 | 16.390 | 0.000 | 0.000 | 0.000 | 0.000 | 16.390 | 0.688 |
| Santa Ana River Water Company | 1,301.374 | 0.000 | 0.000 | 0.000 | 0.000 | 48.515 | 48.515 | 56.634 |
| Upland, City of | 2,852.401 | 2,822.046 | 0.000 | 0.000 | 0.000 | 0.000 | 2,822.046 | 238.070 |
| West End Consolidated Water Co | 947.714 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 39.761 |
| West Valley Water District | 644.317 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 0.000 | 27.032 |
| | 54,834.000 | 113,964.114 | (11,552.242) | (2,338.973) | 0.000 | 92.652 | 105,876.384 | 6,742.552 |

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 [Order]

EXHIBIT D

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO CIVIL DIVISION

MAR 15 2019

BY 
ACHILLE BAYLESS, DEPUTY

**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.,

Defendants.

Case No. RCV RS 51010

[Assigned for All Purposes to the Honorable Stanford E. Reichert]

~~PROPOSED~~ ORDER RE WATERMASTER'S MOTION FOR COURT TO RECEIVE AND FILE WATERMASTER'S 41ST ANNUAL REPORT

Date: March 15, 2019
Time: 1:30 p.m.
Dept.: S35

[Notice of Motion and Motion for Court to Receive and File Watermaster's 41st Annual Report and Declaration of Bradley J. Herrema filed concurrently herewith]

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~~PROPOSED~~ ORDER

On March 15, 2019, Chino Basin Watermaster's ("Watermaster") Motion for the Court to Receive and File Watermaster's 41st Annual Report came on regularly for hearing in the above-captioned matter. Having read and considered the papers, the Motion is **GRANTED**. It is **HEREBY ORDERED** that Watermaster's Fiscal Year 2017-18 41st Annual Report is received by this Court and filed in its records.

Dated: 3.15.19



A handwritten signature in black ink, appearing to read "Stanford E. Reichert".

Hon. Stanford E. Reichert
Judge of the Superior Court

18645367

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 March 18, 2019 served the following:

1. NOTICE OF ORDERS AT MARCH 15, 2019 HEARING

/ 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 March 18, 2019 in Rancho Cucamonga, California.


By: Camille H. Gregory
Chino Basin Watermaster

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10
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.

19 **Case No. RCV 51010**

[Assigned for All Purposes to the
Honorable Stanford E. Reichert]

**NOTICE OF RULINGS AFTER HEARING
ON WATERMASTER'S MOTION
REGARDING 2015 SAFE YIELD RESET
AGREEMENT, AMENDMENT OF
RESTATED JUDGMENT, PARAGRAPH 6**

DATE: April 28, 2017
TIME: 1:30 p.m.
DEPT.: S35

20
21 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:**


22 PLEASE TAKE NOTICE that, on April 28, 2017 at 1:30 p.m. in Department S35 of the
23 above-entitled Court, the Honorable Stanford E. Reichert conducted a hearing and issued its
24 Additional/Final Further Revised Proposed Order Re SYRA and Additional/Final Rulings and
25 Order for Oral Argument, a copy of which is attached hereto as Exhibit 1, and its ORDERS for
26 Watermaster's Motion Regarding 2015 Safe Yield Reset Agreement, Amendment of Restated
27 Judgment, Paragraph 6, a copy of the Orders is attached hereto as Exhibit 2.

28 The Court additionally granted each of Watermaster's October 28, 2016 Motion for Court

1 Approval of Temporary Substitute Rate for Physical Solution Transfers Under Exhibit "G" to the
2 Judgment, Watermaster's December 12, 2016 Request for Court to Receive and File 38th
3 Watermaster Annual Report, and Watermaster's March 24, 2017 Request for Court to Receive
4 and File Watermaster Semi-Annual OBMP Status Reports.

5
6 Dated: April 28, 2017

BROWNSTEIN HYATT FARBER
SCHRECK, LLP

7 By: 
8 SCOTT S. SLATER
9 BRADLEY J. HERREMA
10 ATTORNEYS FOR
11 CHINO BASIN WATERMASTER

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APR 28 2017

BY *Tiffany Kretzmeier*
TIFFANY KRETZMEIER, DEPUTY

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

CHINO BASIN MUNICIPAL WATER) Case No. RCV 51010
DISTRICT,)
Plaintiff,)
vs.)
CITY OF CHINO, et al.,)
Defendants)

ORDERS for Watermaster's Motion
Regarding 2015 Safe Yield Reset
Agreement, Amendment of Restated
Judgement, Paragraph 6

Date: April 28, 2017
Time: 1:30 PM
Department: S35

Watermaster's Motion Regarding 2015 Safe Yield Reset Agreement,
Amendment of Restated Judgment, Paragraph 6, joined by The Chino Basin
Overlying (Agricultural) Pool Committee and The Inland Empire Utilities Agency
("IEUA") and opposed by Jurupa Community Services District ("JCSD") and the
City of Chino ("Chino") is granted in part and denied in part for the reasons set forth
herein. The court grants the motion with respect to amending the restated judgment
to reset the Safe Yield of the basin to 135,000 AFY.

However, the court denies all other parts of SYRA including the motions to
amend the schedule for access to Re-Operation Water and. The court denies the
motion to institute Safe Storage Management Measures. The court makes additional
orders regarding priorities and with respect to access for Re-Operation Desalter

1 water as set forth herein.

2 Additionally, the court orders that the Safe Yield reset to 135,000 AFY is an
3 event that requires a “recalculation” with the definition of Judgment, Exhibit “H”
4 ¶10.

6 **REQUEST FOR JUDICIAL NOTICE**

7 The court grants requests for judicial notice of JCSD as follows:

- 8 1. Restated Judgment (“Judgment”) in case number RCV 51010.
- 9 2. Implementation Plan Optimum Basin Management Program for the Chino Basin
10 (“OBMP Implementation Plan”).
- 11 3. Chino Basin Watermaster Rules and Regulations (“Rules and Regulations”).
- 12 4. 2015 Safe Yield Reset Agreement (“SYRA”).
- 13 5. Order Concerning Motion for Approval of Peace II Documents (“2007 Order”)
14 in case number RCV 51010.
- 15 6. 2000 Peace Agreement Chino Basin (“Peace I Agreement” or “Peace I”).
- 16 7. Watermaster Compliance with Condition Subsequent Number Eight: Proposed
17 Order Submitted Concurrently.
- 18 8. Peace II Agreement: party support for Watermaster’s OBMP Implementation
19 Plan, Settlement and Release of Claims Regarding Future Desalters (“Peace II
20 Agreement” or “Peace II”).

22 **JOINDERS AND FILINGS**

23 A. Watermaster's motion regarding 2015 Safe Yield Reset Agreement,
24 amendment of restated Judgment, Paragraph 6.

25 1. City of Chino’s objections to declaration of Kavounas submitted with
26 Watermaster’s Motion regarding 2015 Safe Yield Reset Agreement, Amendment of
27 Restated Judgment, Paragraph 6

28 Rulings in separate document.

1 2. City of Chino's objections to declaration of Wildermuth submitted with
2 Watermaster's Motion regarding 2015 Safe Yield Reset Agreement, Amendment of
3 Restated Judgment, Paragraph 6

4 Rulings in separate document.

5 B. The following parties joined in Watermaster's motion:

- 6 1. Overlying (Agricultural) Pool
7 2. Inland Empire Utilities Agency

8 C. Oppositions to Watermaster's motion

- 9 1. City of Chino with supporting documents
10 a) Declaration of Robert Shibatani, physical hydrologist
11 b) Declaration of David Crosley, civil engineer, water and environmental
12 manager for City of Chino
13 2. Jurupa Community Services District (JCSD) with supporting documents
14 a) Request for judicial notice identified above
15 b) Declaration of Todd Corbin, general manager of JCSD
16 c) Declaration of Robert Donlan, attorney

17 D. Watermaster's reply to oppositions to motion regarding 2015 Safe Yield Reset
18 Agreement, amendment of Restate Judgement, Paragraph 6

- 19 1. Supplemental declaration of Kavounas
20 a) City of Chino's objections Kavounas supplemental declaration in
21 support of Watermaster's reply the Chino opposition
22 b) Watermaster's Response to City of Chino's objections to supplemental
23 declaration of Peter Kavounas in support of Watermaster's reply to
24 Chino's Opposition to Motion regarding 2015 Safe Yield Reset
25 Agreement, Amendment of Restated Judgment, Paragraph 6

26 I) Motion to strike denied. The court finds that the declaration did not
27 raise new issues.

28 II) All objections overruled.

- 1 2. Supplemental declaration of Wildermuth
- 2 a) City of Chino's objections to Wildermuth supplemental declaration in
- 3 support of Watermaster's reply to Chino opposition.
- 4 b) Watermaster's Response to City of Chino's objections to supplemental
- 5 declaration of Mark Wildermuth in support of Watermaster's reply to
- 6 Chino's Opposition to Motion regarding 2015 Safe Yield Reset
- 7 Agreement, Amendment of Restated Judgment, Paragraph 6.
- 8 I) Motion to strike denied. The court finds that the declaration did not
- 9 raise new issues.
- 10 II) All objections overruled.
- 11 3. Declaration of Danielle Maurizio, assistant general manager of Chino
- 12 Basin
- 13 a) City of Chino's objections to supplemental declaration of Danielle D.
- 14 Maurizio in support of Watermaster's reply to chino opposition
- 15 b) Watermaster's Response to City of Chino's objections to supplemental
- 16 declaration of Danielle E. Maurizio in support of Watermaster's reply to
- 17 Chino's Opposition to Motion regarding 2015 Safe Yield Reset
- 18 Agreement, Amendment of Restated Judgment, Paragraph 6
- 19 I) Motion to strike denied. The court finds that the declaration did not
- 20 raise new issues.
- 21 II) All objections overruled.
- 22 4. Joinders in Watermaster's reply to oppositions
- 23 a) Overlying (Agricultural) Pool
- 24 b) City of Pomona and (in one pleading document)
- 25 I) City of Upland
- 26 II) Monte Vista Water District
- 27 III) Cucamonga Valley Water District
- 28 IV) Fontana Union Water Company

1 E. In an order Dated March 22, 2016, the court served the parties with questions
2 and a request for further briefing in response to the questions. The responses were
3 as follows:

- 4 1. Jurupa Community Services District response to Judge Reichert's
5 request for clarification filed April 1, 2016.
- 6 2. City of Chino's responses to Judge Reichert's questions, filed April 1,
7 2016.
- 8 3. Watermaster's response to order for additional briefing filed April 1,
9 2016.
 - 10 a) Chino's reply to Watermaster's response to order for additional briefing,
11 filed April 11, 2016.
 - 12 b) Jurupa Community Services District's additional response to Judge
13 Reichert's request for clarification, filed April 11, 2016
- 14 4. Watermaster's further response to order for additional briefing, filed
15 April 11, 2016

16 F. At the hearing on February 22, 2017, the court ordered that the parties may
17 file questions regarding the court's tentative draft order, and the court set a briefing
18 schedule. In response, the court received the following:

- 19 1. Filed March 10, 2017-Chino Basin Watermaster response to February
20 22, 2017 order
- 21 2. Filed March 10, 2017-City of Chino's response to issue in section II of
22 Judge Reichert's revised proposed order re SYRA
- 23 3. Filed March 10, 2017-Responding AP members (Monte Vista Water
24 District, Cucamonga Valley Water District, City of Pomona, and City of Upland)
25 filed March 10, 2017
- 26 4. Filed March 24, 2017-Chino Basin Watermaster further response to
27 February 22, 2017 order
- 28 5. Filed March 24, 2017-City of Chino's response to court authorized

1 further briefing re revised tentative order re Watermaster's motion re 2015 Safe Yield
2 reset Agreement

3 6. Filed March 24, 2017-City of Chino's response to Chino Basin
4 Watermaster's response to February 22, 2017 order

5 7. Filed March 24, 2017-City of Ontario's response regarding issue for
6 further briefing

7 8. Filed March 24, 2017-Jurupa Community Services District opposition
8 to Monte Vista Water District's response to court's February 22, 2017 order re SYRA
9 and response to questions [joins in the opposition filed by the City of Ontario]

10 9. Filed March 24, 2017-Responding AP members response to both
11 Watermaster and City of Chino's further briefing re revised tentative order re
12 Watermaster's motion re 2015 Safe Yield Reset Agreement

13 10. Filed April 4, 2017-errata to City of Chino's response to Chino Basin
14 Watermaster's response to February 22, 2017 order

15 11. Filed April 7, 2017-Chino Basin Watermaster further response to
16 February 22, 2017 order

17 12. Filed April 7, 2017-City of Chino's reply to responses of Watermaster,
18 4AP Members, Ontario and Jurupa

19 13. Filed April 7, 2017-Jurupa Community Services District's limited reply
20 to City of Chino's response to Chino Basin Watermaster's response to February 22,
21 2017 order, dated March 24, 2017

22 14. Filed April 7, 2017-Responding AP Members reply to opposition briefs
23 re revised tentative order re Watermaster's motion re 2015 Safe Yield Reset
24 Agreement

25 15. Filed April 27, 2017, request by Chino basin desalter authority member
26 agencies regarding desalter pumping

1 **SEPTEMBER 23, 2016, HEARING AND ADDITIONAL BRIEFING**

2 After extensive briefing and consideration, on September 23, 2016, the court
3 held a hearing on the 2015 SYRA and related motions. Before the hearing, the court
4 had issued a lengthy (over 60 pages) proposed order. At the hearing on September
5 23, there was extensive oral argument, and the court concluded that some aspects of
6 the court’s proposed order were confusing or erroneous. Therefore, the ordered that
7 there be even further briefing, and the court ordered additional briefing through
8 questions by the parties about the proposed order. In its order entitled “Revised
9 Proposed Order Re SYRA in Response to Questions: Issues for Further Briefing,”
10 and the current order, the court addressed the parties’ questions.
11
12

13 **I. INTRODUCTION, DEFINITIONS, BACKGROUND**

14 A. The 1978 judgment in *Chino Basin Municipal Water District v. City of Chino* (San
15 Bernardino Superior Court Case No. 51010) set the Safe Yield of the Chino Basin at
16 140,000 acre-feet per year (AFY), but reserved continuing jurisdiction to the court to
17 amend the Judgment, inter alia, to redetermine the Safe Yield after the first 10 years
18 of operation of the Physical Solution established under the Judgment. The Physical
19 Solution identified three groups of parties (Pools) with water interests in the Chino
20 Basin, and set forth their allocations as follows:

21

| Pool | Allocation | Acre-feet Yearly Allocation |
|--|--|-----------------------------|
| 22 23 24 25 26 Overlying (Agricultural) Pool* | 414,000 acre-feet in any five (5) consecutive years [note: 414,000 ÷ 5 = 82,800 per year] | 82,800 |
| 27 28 Overlying (Non-agricultural) | 7,366 acre-feet | 7,366 |

| | | | |
|---|---------------|-------------------------|---------|
| 1 | Pool** | | |
| 2 | Appropriative | 49,834 acre-feet | 49,834 |
| 3 | Pool*** | | |
| 4 | | Yearly total allocation | 140,000 |

5 *The members of this pool included dairy farms.

6 **The members of this pool include businesses which use water in their production
7 processes.

8 ***The members of this pool include cities and water companies. They
9 “appropriate” the water by pumping and selling it.

10 Over the course of the Court-Approved Management Agreements (set forth in
11 the next section), the court allowed up to 600,000 AF of water to be
12 produced/pumped out of the Chino Basin without any replenishment obligation.
13 “While the parties are not limited in the quantities of water they may produce, the
14 Judgment requires that beyond the permitted Controlled Overdraft comprising an
15 initial 200,000 AF and an additional 400,000 AF of Re-operation water (Restated
16 Judgment, Exhibit “T”, ¶¶ 2.(b), 3.(a)), there must be a bucket for bucket
17 replenishment [and associated cost to the producer/pumper] to offset production in
18 excess of the Basin’s Safe Yield. (Restated Judgment, ¶¶ 13, 42).” (Watermaster’s
19 Response to Questions for Clarification in Final Orders for Watermaster’s Motion
20 Regarding 2015 Safe Yield Reset Agreement, Amendment of Restated Judgment,
21 Paragraph 6, page 2, line 23 to page 3, line 4, filed October 28, 2016.)

22 The court notes that this total “controlled overdraft” i.e., pumping without
23 replenishment cost, (aka “Re-Operation Water”) of 600,000 AF has just about been
24 exhausted.

25 This motion is the first time the court has redetermined the Safe Yield since
26 the Judgment was entered in 1978.

27
28 B. Since the entry of the judgment, the court has previously approved agreements to

1 implement the Physical Solution (“Court Approved Management Agreements” aka
2 “CAMA”). There is no dispute that the court has the authority and duty to
3 independently review the evidence de novo and determine whether proposals by
4 Watermaster or any party comply with the Judgment and the Court Approved
5 Management Agreements. (Restated Judgment ¶31(d).) The Court Approved
6 Management Agreements are:

7 1. The Chino Basin Peace Agreement (Peace I Agreement), dated June 29,
8 2000, as subsequently amended in September 2004 and December 2007.

9 a. In 2000 the parties executed Peace Agreement Chino Basin (Peace I
10 Agreement) and agreed to Watermaster’s adoption of the Optimum
11 Basin Management Plan (OBMP) Implementation Plan. At about the
12 same time, the court ordered Watermaster to proceed in a manner
13 consistent with Peace I and the OBMP, including Program Element 8
14 (Develop and Implement Groundwater Storage Management Program)
15 and Program Element 9 (Develop and Implement Storage and
16 Recovery Programs). The implementation plan acknowledged the need
17 to obtain better production data through the metering of non-exempt
18 production within the Basin. Program Elements 8 and 9 provided for
19 Watermaster to redetermine and reset the Basin’s Safe Yield in the year
20 2010/11. The basis of the redetermination and reset would be
21 production data derived from the collection of additional data regarding
22 the parties’ production (i.e., parties who pumped water out of the Basin)
23 within the basin during the 10-year period 2000/01 through 2009/10.
24 The study for redetermination and reset was not completed until 2015,
25 and the motion regarding determination and reset was not filed until
26 October 2015.

27 b. The Peace I Agreement introduced the installation of Desalters in the
28 southwest portion of the Basin. The Desalters pump ground water

1 from the aquifer and supply that water to water companies and other
2 users. By pumping water out of the aquifer, the Desalters also lowered
3 the ground water table to help obtain Hydrologic Control, i.e.,
4 preventing Chino Basin ground water from reaching the Santa Ana
5 River south of the Basin. The Santa Ana River is a major source of
6 water for Orange County, and water impurities and contaminants, some
7 of which came from the Chino Basin dairy farms (“salts”) were in the
8 groundwater flowing from the Basin into the Santa Ana River. The
9 Desalter capacity has now expanded to 40 MGD (40 million gallons per
10 day) as provided in the OBMP Implementation Plan to protect against a
11 decline in Safe Yield and for water quality benefits, but the court
12 reserved the question of how “Future Desalter” capacity would be
13 addressed. The Chino Basin Desalter Authority (CDA), which includes
14 the City of Chino, participated in the construction of the Desalters
15 which represented a substantial engineering and financial undertaking.
16 These Desalters were completed and fully operational in 2006.

17 2. The Peace II Measures (court approved on December 21, 2007).

- 18 a. In 2007, the parties entered into the Peace II Agreement. The objective
19 was to increase the Desalter capacity to 40 MGD to achieve the OBMP
20 Implementation Plan objectives. In order to do this, the parties
21 designed and financed an additional 10 million gallons per day (MGD)
22 of expanded Desalter capacity. The expansion of the Desalters to the
23 full plant capacity will be completed in 2017. With the completion of
24 this construction, Hydraulic Control will be achieved. Hydraulic
25 Control now means only a de minimus amount of groundwater will
26 flow from the Chino Basin south into the Santa Ana River. In fact, the
27 Desalters now have lowered the water table in the south end of the
28 Basin so that ground water is now flowing from the Santa Ana River

1 north into the Chino Basin. ~~This is called Re-Operation water.~~

2 3. The Optimum Basin Management Plan (OBMP) Implementation Plan
3 dated June 29, 2000, was supplemented in December 2007.

4 4. The Recharge Master Plan, dated 1998, was updated in 2010 and
5 amended in 2013.

6 5. The Watermaster Rules and Regulations dated June 2000, as amended.

7 6. The October 8, 2010 Order Approving Watermaster's Compliance with
8 Condition Subsequent Number Eight and Approving Procedures to be used to
9 Allocate Surplus Agricultural Pool Water in the Event of a Decline in Safe Yield.

10 7. Watermaster Resolution 2010-04 ("Resolution of the Chino Basin
11 Watermaster regarding Implementation of the Peace II Agreement and the Phase III
12 Desalter Expansion in Accordance with the December 21, 2007 Order of the San
13 Bernardino Superior Court").

14
15 C. Additional background for motion

16 1. At the September 24, 2015 Watermaster Board Meeting, the board
17 adopted Resolution 2015-06: Resolution of the Chino Basin Watermaster regarding
18 the 2015 Safe Yield Reset Agreement (SYRA).

19 2. Through a Facilitation and Non-Disclosure Agreement (FANDA),
20 Watermaster attempted to obtain agreement as to all issues regarding Safe Yield
21 redetermination and reset allocation. Those issues included not only a reset of the
22 Safe Yield from 140,000 acre-feet per year to 135,000 acre-feet per year, but also
23 Watermaster's accounting for reallocations related to Court Approved Management
24 Agreements, and a method of allocations for water storage called the Safe Storage
25 Management Agreements.

26 a) The FANDA process took place starting in November 2014, and
27 through at least 30 meetings, by May 27, 2015, all but one of the then-
28 active parties to the FANDA reached a non-binding agreement among

1 their negotiating representatives on certain key principles (apparently
2 also called the “term sheet”) embodied in the Safe Yield Summary of
3 Non-Binding Key Principles Derived from the Facilitated Process.

- 4 b) The parties continued to negotiate, with a goal of reducing the Key
5 Principles into a binding instrument for execution by September 1,
6 2015. That agreement is identified as the 2015 Safe Yield Reset
7 Agreement (SYRA). The Appropriative Pool, the Overlying
8 (Agricultural) Pool, and the Three Valleys Municipal Water District
9 approved the 22-page agreement, as did many other parties. The City
10 of Chino refused to sign the agreement.
- 11 c) On September 24, 2015, the board at its regular meeting adopted
12 resolution 2015-06, and previously – on September 17, 2015 – the
13 advisory committee approved resolution 2015-06: “Resolution of Chino
14 Basin Watermaster regarding 2015 Safe Yield Reset Agreement
15 (SYRA).”
- 16 d) Watermaster’s instant motion asks the court to address the issues
17 covered in the SYRA as follows:
- 18 I) The reset of the Basin Safe Yield from 140,000 acre-fee per year (AFY)
19 to 135,000 AFY pursuant to the Restated Judgment, the OBMP
20 Implementation Plan, and Watermaster’s Rules and Regulations;
- 21 II) The manner in which Watermaster should account for various
22 components of the recharge to the Basin implementing the Court-
23 Approved Management Agreements; and
- 24 III) Establishment of Safe Storage Management Measures (SSMM)
25 intended to ensure that withdrawals of groundwater from authorized
26 storage accounts within the Basin are safe, sustainable, and will not
27 cause Material Physical Injury or undesirable results.
- 28

1 D. SUMMARY RULINGS:

2 In its motion, Watermaster requests an order acknowledging the 2015 Safe
3 Yield Reset Agreement and ordering Watermaster to proceed in accordance with its
4 terms with respect to amending the restated judgment to reset the Safe Yield of the
5 Basin from 135,000 AFY to 135,000 AFY and amending the schedule for access to
6 Re-Operation water. For the reasons set forth herein, the court grants the motion
7 with respect to amending the restated judgment to reset the Safe Yield of the basin to
8 135,000 AFY. However, the court denies the rest of the motions including the motions
9 to amend the schedule for access to Re-operation water and the motion to institute
10 Safe Storage Management Measures. The court makes additional orders with respect
11 to Desalter water as set forth herein.
12

13 **II. Severability of SYRA**

14 Watermaster has questioned whether the court can sever SYRA and enforce
15 certain sections and not others. For the following reasons, except for the Safe Yield
16 reset itself, the court has concluded that it cannot enforce some of sections and not
17 others:

18 A. Watermaster itself has argued that SYRA is an integrated document which
19 cannot be divided.

20 1. Watermaster's "Response to Questions for Clarification, etc." filed
21 October 28, 2016, states: "the SYRA is the product of the Facilitation and Non-
22 Disclosure Agreement (FANDA) process, during which the parties to that agreement
23 comprehensively settled and compromised their disagreements, so as to enable
24 Watermaster to implement the CAMA's through and following the reset of Safe
25 Yield."

26 a) The court does not find a basis for this characterization. *Most* of the
27 parties settled and compromised their disagreements, but not all,
28 notably the city of Chino and Jurupa Community Services District.

1 2. Watermaster further argues that approving “some, but not all, of
2 SYRA’s provisions can materially advantage one party over another, in that the full
3 benefit of the parties intended settlement and compromise is not achieved, as one or
4 more parties may be denied the consideration for which it bargained.”

5 a) For the reasons set forth below, the court refuses to adopt SYRA in
6 whole. Following Watermaster’s own all-or-nothing argument, the
7 court must conclude that not only is there no legal basis to enforce part
8 of SYRA, but also that it is fundamentally unfair to the parties to
9 enforce portions of SYRA for which the parties did not bargain.

10 3. However, the court concludes there is a qualitative difference between
11 the safe yield reset and the balance of SYRA.

12 a) The request to reduce the Safe Yield to 135,000 AFY is a legal
13 determination for the court.

14 b) The request to reduce Safe Yield is based on the Reset Technical
15 Memorandum report and model. That memorandum has nothing to do
16 with interactions, bargaining, or allocations among the parties.

17 I) There ample technical and scientific support for the reset in the
18 Technical Memorandum and the 2013 Chino Basin Groundwater
19 Model Update and Recalculation of Safe Yield Pursant to the Peace
20 Agreement prepared by Wildermuth Environmental, Inc. dated
21 October 2015.

22 c) The request to reduce Safe Yield is in response to the court order itself
23 to evaluate the yield every 10 years

24 I) Although the study should have been done in 2010, at least it was
25 completed in 2015.

26 II) None of the other aspects of SYRA were pursuant to a court order.

27 III) The safe yield reset is a legal determination for the court. There
28 is no “bargained-for exchange” for the court to consider.

1 d) Therefore for these reasons and those set forth in section III below ~~the~~
2 the court adopts the following provisions of Article 4-SAFE YIELD
3 RESET TO 135,000 AFY of the SYRA AND ORDERS AS
4 FOLLOWS:

5 4.1 Safe Yield Reset. Consistent with the prior orders of the Court pursuant to its
6 continuing jurisdiction, effective July 1, 2010 and continuing until June 30, 2020, the
7 Safe Yield for the Basin is reset at 135,000 AFY. For all purposes arising under the
8 Judgment, the Peace Agreements and the OBMP Implementation Plan, the Safe
9 Yield shall be 135,000 AFY, without exception, unless and until Safe Yield is reset in
10 accordance with the procedures set forth in this order, and determined by the Court
11 pursuant to its retained continuing jurisdiction.

12
13 4.2 Scheduled Reset. Watermaster will initiate a process to evaluate and reset the
14 Safe Yield by July 1, 2020 as further provided in this order. Subject to the provisions
15 of Paragraph 4.3 below, the Safe Yield, as it is reset effective July 1, 2020 will
16 continue until June 30, 2030. Watermaster will initiate the reset process no later than
17 January 1, 2019, in order to ensure that the Safe Yield, as reset, may be approved by
18 the court no later than June 30, 2020. Consistent with the provisions of the OBMP
19 Implementation Plan, thereafter Watermaster will conduct a Safe Yield evaluation
20 and reset process no less frequently than every ten years. This Paragraph is deemed
21 to satisfy Watermaster's obligation, under Paragraph 3.(b) of Exhibit "I" to the
22 Restated Judgment, to provide notice of a potential change in Operating Safe Yield.

23
24 4.3 Interim Correction. In addition to the scheduled reset set forth in Paragraph
25 4.2 above, the Safe Yield may be reset in the event that, with the recommendation
26 and advice of the Pools and Advisory Committee and in the exercise of prudent
27 management discretion described in Paragraph 4.5(c), below, Watermaster
28 recommends to the court that the Safe Yield must be changed by an amount greater

1 (more or less) than 2.5% of the then-effective Safe Yield.

2
3 4.4 Safe Yield Reset Methodology. The Safe Yield has been reset effective July 1,
4 2010 and shall be subsequently evaluated pursuant to the methodology set forth in
5 the Reset Technical Memorandum. The reset will rely upon long-term hydrology and
6 will include data from 1921 to the date of the reset evaluation. The long-term
7 hydrology will be continuously expanded to account for new data from each year,
8 through July 2030, as it becomes available. This methodology will thereby account
9 for short-term climatic variations, wet and dry. Based on the best information
10 practicably available to Watermaster, the Reset Technical Memorandum sets forth a
11 prudent and reasonable professional methodology to evaluate the then prevailing
12 Safe Yield in a manner consistent with the Judgment, the Peace Agreements, and the
13 OBMP Implementation Plan. In furtherance of the goal of maximizing the
14 beneficial use of the waters of the Chino Basin, Watermaster, with the
15 recommendation and advice of the Pools and Advisory Committee, may supplement
16 the Reset Technical Memorandum's methodology to incorporate future advances in
17 best management practices and hydrologic science as they evolve over the term of
18 this order.

19
20 4.5 Annual Data Collection and Evaluation. In support of its obligations to
21 undertake the reset in accordance with the Reset Technical Memorandum and this
22 order, Watermaster shall annually undertake the following actions:

23 (a) Ensure that, unless a Party to the Judgment is excluded from reporting,
24 all production by all Parties to the Judgment is metered, reported, and reflected in
25 Watermaster's approved Assessment Packages;

26 (b) Collect data concerning cultural conditions annually with cultural
27 conditions including, but not limited to, land use, water use practices, production,
28 and facilities for the production, generation, storage, recharge, treatment, or

1 transmission of water;

2 (c) Evaluate the potential need for prudent management discretion to avoid
3 or mitigate undesirable results including, but not limited to, subsidence, water quality
4 degradation, and unreasonable pump lifts. Where the evaluation of available data
5 suggests that there has been or will be a material change from existing and projected
6 conditions or threatened undesirable results, then a more significant evaluation,
7 including modeling, as described in the Reset Technical Memorandum, will be
8 undertaken; and,

9 (d) As part of its regular budgeting process, develop a budget for the
10 annual data collection, data evaluation, and any scheduled modeling efforts, including
11 the methodology for the allocation of expenses among the Parties to the Judgment.
12 Such budget development shall be consistent with section 5.4(a) of the Peace
13 Agreement.

14
15 4.6 Modeling. Watermaster shall cause the Basin Model to be updated and a
16 model evaluation of Safe Yield, in a manner consistent with the Reset Technical
17 Memorandum, to be initiated no later than January 1, 2024, in order to ensure that
18 the same may be completed by June 30, 2025.

19
20 4.7 Peer Review. The Pools shall be provided with reasonable opportunity, no
21 less frequently than annually, for peer review of the collection of data and the
22 application of the data collected in regard to the activities described in Paragraphs
23 4.4, 4.5, and 4.6 above.

24
25 4.8 No Retroactive Accounting. Notwithstanding that the initial Safe Yield reset,
26 described in Paragraph 4.1 above, shall be effective as of July 1, 2010, Watermaster
27 will not, in any manner, including through the approval of its Assessment Packages,
28 seek to change prior accounting of the prior allocation of Safe Yield and Operating

1 Safe Yield among the Parties to the Judgment for production years prior to July 1,
2 2014.

3
4
5 **III. THE COURT FURTHER ORDERS AS FOLLOWS:**

6 A. The court amends the restated judgment ¶6 and sets the safe yield to 135,000
7 AFY for the following reasons:

8 1. The court accepts the findings and conclusions of Wildermuth for the
9 following reasons. Those conclusions are set forth in the reset Technical
10 Memorandum.

11 a) Wildermuth has been the authoritative resource for the parties and the
12 court during the pendency of the case for the last 15 years.

13 b) Wildermuth has performed a detailed analysis with substantiated facts
14 and findings in the reset technical memorandum, the supplemental
15 declaration of Mark Wildermuth in support of Watermaster's reply to
16 oppositions to the motion regarding 2015 Safe Yield Reset Agreement,
17 and the memo to restated judgment, paragraph 6 aka Wildermuth
18 supplemental declaration.

19 c) The court accepts the net recharge approach and calculations set forth
20 in the Wildermuth report.

21 d) The Wildermuth report gives the most comprehensive analysis and
22 credible evaluation of the historic condition of the Basin.

23 e) The court does not accept the conclusions of Robert Shibatani for the
24 following reasons:

25 I) Shibatani recognizes that the net recharge calculation is a legitimate
26 approach to a determination of Safe Yield.

27 II) The Shibatani approach is unnecessarily quantitative. The Wildermuth
28 analysis allows for the definitions required for the analysis of the Chino

1 Basin, including cultural conditions and undesirable results.

2 III) Wildermuth has considered the effects of climate change of
3 Basin precipitation. The court accepts Wildermuth's conclusion that
4 there are not any better predictive modeling scenarios generally available
5 at this time accurately calibrated to the historical rainfall and are
6 therefore not reliable as a predictive tool.

7 2. The Restated Judgment's definition of Safe Yield includes the
8 consideration of the evolutionary land-use conditions the need to protect the Basin
9 against undesirable results.

10 3. No party has objected to the reduction in Safe Yield, except the city of
11 Chino. Chino's objections were discussed and rejected/overruled for the reasons set
12 forth in Joinders and Filings, Section A.2 above.

13 4. The reduction safe yield is consistent with the Court-Approved
14 Management Agreements.

15 5. The court finds that the provisions of SYRA set for in Section II above
16 set forth an approach to a determination of future Safe Yield determinations in a
17 manner consistent with the Court Approved Management Agreements.

18 a) The declaration of Peter Wildermuth and the supporting
19 documentation, analysis supports the court's conclusion.

20 b) Wildermuth declaration, paragraph 14, states his opinion that the Basin
21 protection measures to which the parties have agreed and the 2015 Safe
22 Yield Reset Agreement will ensure that the Basin is not harmed by
23 extraction of 135,000 AFY through fiscal 2020. However, again the
24 court emphasizes that its ruling is not based on the agreement of the
25 parties. The court's ruling is based upon the Restated Judgment, the
26 Court Approved Management Agreements, and its legal conclusions
27 supported by the technical analyses identified in the court's order.

28 I) Although the court concludes the Safe Storage Management Measures

1 are useful and advisable, the court concludes there is no specific factual
2 basis requiring the Safe Yield reset to include Safe Storage Management
3 Measures. Therefore the court concludes that even without the Safe
4 Storage Management Measures, reduction of Safe Yield to 135,000 AFY
5 will not harm the Basin.

6 II) The 2013 Chino Basin Groundwater Model Update and Recalculation
7 of Safe Yield Pursuant to the Peace Agreement is sufficiently
8 documented and the court finds the data reliable.

9 c) Wildermuth declaration, paragraph 15, states that the Basin protection
10 measures to which the parties have agreed and the 2015 Safe Yield
11 Reset Agreement, including the Safe Storage Management Measures,
12 will ensure that the Basin is not harmed by extractions of the 20,000 AF
13 that was allocated in the past 4 years and would have been allocated if
14 the Safe Yield have been reset to 135,000 AFY in 2011.

15 I) However, again Wildermuth does not specifically address the necessity
16 of the Safe Storage Measures with respect to complying with the Court
17 Approved Management Agreements. Therefore, the court again
18 concludes that even without the Safe Storage Management Measures,
19 reduction of Safe Yield to 135,000 AFY will not harm the Basin.

20 II) Again, the 2013 Chino Basin Groundwater Model Update and
21 Recalculation of Safe Yield Pursuant to the Peace Agreement is
22 sufficiently documented and the court finds the data reliable.

23 d) Therefore, the court concludes that the extraction of 135,000 AFY is
24 consistent with the Court Approved Management Agreements and does
25 not create any undesirable result or Material Physical Injury to the Basin.
26

27 B. The measures set forth in Article 4 are consistent with the Physical Solution
28 under the judgment and Article X, section 2 of the California Constitution.

1
2 C. Paragraph 6 of the Restated Judgment is hereby amended to read as follows:
3 “Safe Yield. The Safe Yield of the Basin is 135,000 acre feet per year.”

4 1. The effective date of this amendment of Paragraph 6 of the Restated
5 Judgement is July 1, 2010.
6
7

8 **IV. SAFE YIELD RESET AGREEMENT (SYRA): WATERMASTER**
9 **ALLOCATION HISTORY, EARLY TRANSFERS, AND THE**
10 **DESALTERS**

11 A. The 1978 Judgment as amended

12 1. The 1978 Judgment ¶44 made the following allocation of rights to Safe
13 Yield in the Chino Basin (“the physical solution”):

| Pool | Allocation |
|-----------------------------------|--|
| Overlying (Agricultural) Pool | 414,000 acre-feet in any 5 consecutive years (82,800 acre-feet per year)* ** |
| Overlying (Non-agricultural) Pool | 7366 acre-feet per year** |
| Appropriative Pool | 49,834 acre-feet per year |
| Total | 140,000 acre-feet per year |

14
15
16
17
18
19
20
21 *Note: $414,000 \div 5 = 82,800$. 82,800 acre-feet per year has been the basis of
22 calculations for the Appropriative Pool going forward from the judgment.

23 **Note: the rights of the members of the Overlying (Agricultural) Pool and
24 the Overlying (Non-Agricultural) Pool are fixed (Restated Judgment ¶8, ¶44, see also
25 Exhibits “C” and “D” to the Restated Judgment). **Therefore the effect of a**
26 **decline of the safe yield is borne entirely by the members of the Appropriative**
27 **Pool (Restated Judgment ¶9).**

28 2. The Judgment ¶1(x) defines Safe Yield as “the long-term average annual

1 quantity of groundwater (excluding replenishment or stored water but including
2 return flow to the basin from use of replenishment or stored water) which can be
3 produced [*i.e.*, pumped] from the basin under cultural conditions of the particular
4 year without causing an undesirable result.”

5 3. The judgment fixed the amount of water production (pumping) that
6 could be allocated to the Overlying (Agricultural) Pool and the Overlying (Non-
7 agricultural) Pool. However, the Appropriative Pool allocation could be changed.

8 a) The court concludes that the disputes in the oppositions concern
9 relationship between unproduced (*i.e.*, unpumped) Overlying
10 Agricultural Pool water (aka Ag Pool water) and the water available to
11 the Appropriative Pool.

12 4. Exhibit “I” to the judgment is the Engineering Appendix. It discusses
13 Hydraulic Control and Re-Operation, which are described in more detail below.
14 Section 3 defines Operating Safe Yield as consisting in any “year of the
15 Appropriative Pool’s share of Safe Yield of the Basin, plus any controlled overdraft
16 of the Basin which Watermaster may authorize.”

17 a) Section 3(b) states that “in no event shall Operating Safe Yield in any
18 year be less than the Appropriative Pool’s share of Safe Yield, nor shall
19 it exceed such share of Safe Yield by more than 10,000 acre feet. The
20 initial Operating Safe Yield is hereby set at 54,834 acre feet per year.”

21 I) The figure of 54,834 acre feet per year is the initial 1978 Judgment
22 allocation of 49,834 acre-feet per year plus 5,000 acre feet per year. The
23 additional 5,000 AFY comes from 200,000 acre-feet of overdraft (water
24 pumped without a replenishment obligation) allocated by the Judgment
25 to the Appropriative Pool. This overdraft total was later increased by
26 400,000 AF to a total of 600,000 AF. The overdraft will be exhausted
27 in 2016/2017. (Watermaster Motion Regarding 2015 Safe Yield Reset
28 Agreement, Amendment of Restated Judgement, Paragraph 6, page 3,

1 line 27.)

2 b) Operating Safe Yield has also come to mean water that the
3 Appropriative Pool could produce/pump without having to purchase
4 replenishment water. (Exhibit “H” ¶5.)

5 5. Exhibit “H” to the judgment described the Appropriative Pool Pooling
6 Plan, paragraph 10 described “Unallocated Safe Yield Water” as follows: “to the
7 extent that, in any 5 years, any portion of the share of Safe Yield allocated to the
8 Overlying (Agricultural) Pool is not produced, such water shall be available for
9 reallocation to members of the Appropriative Pool as follows:

10 (a) Priorities. Such allocation shall be made in the following sequence:

11 (1) to supplement, in the particular year, water available from Operating Safe
12 Yield to compensate for any reduction in the Safe Yield by reason of
13 recalculation thereof after the tenth year of operation hereunder. [This
14 Exhibit H ¶10(a)(1) priority is sometimes called ‘unproduced Agricultural Pool
15 water’ or ‘unproduced Ag Pool water.’ The current credited production
16 (pumping) for agricultural groundwater is about 33,600 AFY, but that includes
17 agricultural land irrigated with reclaimed water. The actual groundwater
18 production for agricultural purposes is about 22,000 AFY. (Jurupa Services
19 District’s response to Judge Reichert’s Request for Clarification, March 22,
20 2016, page 2, lines 8–10.)]

21 (2) pursuant to conversion claims as defined in Subparagraph (b) hereof.

22 (3) as a supplement to Operating Safe Yield, without regard to reductions in
23 Safe Yield.”

24 6. In an order dated November 17, 1995, Conversion Claims were defined
25 in Exhibit “H” ¶10(b) [this is the Subparagraph (b) to which the preceding
26 paragraph--page 23, line 21--refers]. Peace I modified this definition in Exhibit “H”
27 ¶10(b) to state as follows:

28 (b) Conversion Claims. The following procedures may be utilized by any

1 appropriator:

2 1) Record of Unconverted Agricultural Acreage. Watermaster shall maintain
3 on an ongoing basis a record with appropriate related maps of all agricultural
4 acreage within the Chino Basin subject to being converted to appropriate
5 water use pursuant to the provisions of this paragraph. An initial
6 identification of such acreage as of June 30, 1995 is attached hereto as
7 Appendix 1.

8 (2) Record of Water Service Conversion. Any appropriator who undertakes
9 to permanently provide water service to lands subject to conversion may
10 report such intent to change water service to Watermaster. Watermaster
11 should thereupon verify such change in water service and shall maintain a
12 record and account for each appropriator of the total acreage involved.
13 Should, at any time, converted acreage return to water service from the
14 Overlying (Agricultural) Pool, Watermaster shall return such acreage to
15 unconverted status and correspondingly reduce or eliminate any allocation
16 accorded to the appropriator involved.

17 (3) Allocation of Safe Yield Rights

18 (i) For the term of the Peace Agreement in any year in which sufficient
19 unallocated Safe Yield from the Overlying (Agricultural) Pool is available for
20 such conversion claims, Watermaster shall allocate to each appropriator with
21 the conversion claim 2.0 acre-feet of unallocated Safe Yield water for each
22 converted acre for which conversion has been approved and recorded by
23 Watermaster.

24 (ii) In any year in which the unallocated Safe Yield water from the Overlying
25 (Agricultural) Pool is not sufficient to satisfy all outstanding conversion claims
26 pursuant to subparagraph (i) herein above, Watermaster shall establish
27 allocation percentages for each appropriator with conversion claims. The
28 percentages shall be based upon the ratio of the total of such converted

1 acreage approved and recorded for each appropriators's [*sic*] account in
2 comparison to the total of converted acreage approved and recorded for all
3 appropriators. Watermaster shall apply such allocation percentage for each
4 appropriator to the total unallocated Safe Yield water available for conversion
5 claims to derive the amount allocable to each appropriator.

6 7. CONCLUSION: With the 1995 amendments, the Judgment set a
7 prioritized list of claims upon unproduced Ag Pool water.

8 Ag Pool water--1995 Judgment amendment

9 82,800 AFY of the Ag Pool's water available to the Appropriative Pool with
10 Appropriative Pool claims prioritized as follows:

11 (1) to supplement, in the particular year, water available from Operating Safe
12 Yield to compensate for any reduction in the Safe Yield by reason of recalculation
13 thereof after the tenth year of operation as required by the Judgment;

14 (2) pursuant to conversion claims as defined in Subparagraph (b of Exhibit "H"
15 ¶10(b);

16 (3) as a supplement to Operating Safe Yield, without regard to reductions in Safe
17 Yield.

18 The court notes that there is currently more than 49,000 AFY of unproduced
19 Agricultural Pool water available. (Jurupa Services District's response to Judge
20 Reichert's Request for Clarification, March 22, 2016, page 2, lines 10-14.)

21
22 B. The 2000 Peace Agreement aka Peace I

23 1. With the agreements made in Peace I, the elements of Desalters and of
24 water transfers entered the water allocations to the parties.

25 2. Peace I Section V-Watermaster Performance defined how Watermaster
26 was to perform regarding procedures for Recharge and Replenishment. In paragraph
27 ¶5.3(g), Watermaster was ordered to approve an "Early Transfer" from the
28 Agricultural Pool to the Appropriative Pool of not less than 32,800 acre-feet per year

1 which was the expected approximate quantity of water not produced by the
2 Agricultural Pool. ¶5.3(g)(i) further stated that “the quantity of water subject to Early
3 Transfer under this paragraph shall be the greater of (i) 32,800 acre-feet or (ii) 32,800
4 acre-feet plus the actual quantity of water not produced by the Agricultural Pool for
5 that Fiscal Year that is remaining after all the land use conversions are satisfied
6 pursuant to” the following provision: “the Early Transfer water shall be annually
7 allocated among members of the Appropriative Pool in accordance with their pro-
8 rata share of the initial Safe Yield.” The court notes that after this deduction, the
9 Safe Yield water available to the Agricultural Pool became 50,000 acre-feet per year.

10 3. Peace I also introduced the construction and operation of Desalters in
11 Section VII. ¶7.5 described replenishment for the Desalters provided from the
12 following sources in the following order:

13 a) Watermaster Desalter replenishment account composed of 25,000 acre-feet
14 of water abandoned by Kaiser and other water previously dedicated by the
15 Appropriative Pool;

16 (b) New Yield of the Basin, unless the water Produced and treated by the
17 Desalters is dedicated by purchaser of the Desalter water to offset the price of
18 Desalter water to the extent of the dedication;

19 (c) Safe Yield of the Basin, unless the water Produced and treated by the
20 Desalters is dedicated by a purchaser of the desalted water to offset the price of
21 Desalter water to the extent of the dedication; [and then]

22 d) Additional Replenishment Water purchased by Watermaster, the cost of
23 which shall be levied as an Assessment by Watermaster.

24 4. The court also concludes that the conversion claims have priority over
25 the Early Transfers because the conversion claims pre-existed the Early Transfer
26 allocations. The conversion claims came into existence with the 1995 Judgment
27 amendment. The Early Transfers came into existence with Peace I in 2000. The
28 Early Transfers must be interpreted in the context of the pre-existing 1995 Judgment

1 amendment.

2 5. CONCLUSION: With Peace I, there were major changes regarding the
3 allocation of water among the parties as set forth in the following table.

| 4 Ag Pool water | 5 Status and/or change 6 result | 7 Comments |
|--|--|---|
| 8 1995 Judgment 9 amendment | 10 82,800 AFY of the Ag 11 Pool's water available to 12 the Appropriate Pool with 13 Appropriative Pool claims 14 prioritized as follows: 15 (1) to supplement, in the 16 particular year, water 17 available from Operating 18 Safe Yield to compensate 19 for any reduction in the 20 Safe Yield by reason of 21 recalculation thereof after 22 the tenth year of 23 operation hereunder. 24 (2) pursuant to conversion 25 claims as defined in 26 Subparagraph (b) hereof. 27 (3) as a supplement to 28 Operating Safe Yield, without regard to reductions in Safe Yield. | |
| 2000 Peace I-Desalters start construction and | Early Transfers of 32,800 AFY of Ag Pool water | New Yield (with conditions) is source of |

| | | |
|--|---|--|
| <p>1 pumping water</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> | <p>going straight to the</p> <p>Appropriative Pool</p> <p>(leaving 50,000 AFY to</p> <p>Ag Pool). The remaining</p> <p>Ag Pool water is subject</p> <p>to Appropriative Pool's</p> <p>prioritized claims.</p> | <p>water to replenish water</p> <p>pumped by the</p> <p>Desalters. Under Peace</p> <p>I therefore Desalters do</p> <p>not affect Safe Yield or</p> <p>Operating Safe Yield.</p> <p>Water</p> <p>produced/pumped by</p> <p>the Desalters is not</p> <p>added to or subtracted</p> <p>from Safe Yield of the</p> <p>Basin.</p> |
|--|---|--|

13 The court concludes that Peace I interrelated Early Transfers and conversion

14 claims in the following way. The Appropriative Pool received unproduced Ag Pool

15 water in at least the amount of 32,800 AFY, but the Appropriative Pool could receive

16 more unproduced Ag Pool water if 1) the Ag Pool did not produce/pump its leftover

17 50,000 AFY and 2) also after subtracting from the 50,000 AFY the Appropriative

18 Pool's conversion claims at the rate of 2 acre-feet per year per converted acre.

19 However, the court also concludes that Peace I did not rearrange the priority

20 of allocation claims on unproduced/unpumped water. The priorities of the

21 judgment remain. Specifically, the priority set forth in Judgment, Exhibit "H,"

22 Paragraph 10.

23 EXAMPLE 1: So, for example in a particular year,

- 24 1. If one Appropriative Pool producer/pumper (e.g., municipality, such as the City of
- 25 Chino) had 1000 acres of converted land resulting in 2000 acre-feet of conversion
- 26 claims (1000 acres x 2.0 acre feet of water/one acre converted), and assuming those
- 27 were the only conversion claims; and
- 28 2. If the Ag Pool produced/pumped only 33,600 AFY leaving 49,200 AFY available

1 for further allocation (82,800 AFY– 33,600 AFY= 49,200 AFY; the court notes that
 2 33,600 AFY is the approximate Ag Pool credited production [Jurupa response to
 3 court’s clarification request, page 2, lines 9-10], but the court is using this figure only
 4 for illustration); then,

5 3. The Ag Pool water that would be available to the Appropriative Pool would be
 6 based on the following calculation

| Example 1-A | Explanation | Comments |
|---|------------------|---|
| Initial Ag Pool allocation | 82,800 AFY | |
| Ag Pool production/pumping | - 33,600 AFY | Assumption |
| Initial balance after production | 49,200 AFY | (82,800 acre-feet – 33,600 acre-feet = 49,200 acre-feet per year) |
| Conversion claims | - 2000 acre-feet | 1000 acres x 2.0 acre feet of water/one acre converted = 2000 acre-feet per year. The subtraction for satisfying conversion claims comes before any reallocation. The conversion claims are applied first because they are set forth in the 1995 Amendment to the Judgment |
| Ag Pool balance after reduction for conversion claims | 47,200 AFY | (49,200 acre-feet - 2000 acre-feet = 47,200 acre-feet per year) Balance: Ag Pool water available to Appropriative Pool after conversion priority claims pursuant to Judgment Exhibit |

| | | |
|---|--------------|--|
| | | “H” Paragraph 10. |
| Reduction for Early Transfers | - 32,800 AFY | The Early Transfer is now applied because Early Transfers were instituted in Peace I in 2000. The Early Transfer from 82,800 AFY allocation leaving 50,000 AFY for the Ag Pool itself to produce/pump and for additional claims by the Appropriative Pool pursuant to Peace I and Peace II.* |
| Balance: Ag Pool water available to the Appropriative Pool after conversion priority claims and Early Transfers | 14,400 AFY | (47,200 acre-feet -32,800 acre-feet = 14,400 acre-feet per year.) This is the total Ag Pool water available for reallocation to Appropriative Pool for production/pumping after subtraction of conversion priority claims of 2,000 acre-feet per year from and the 32,800 Early Transfer from the allotment of Ag Pool water.** |
| | | |

*It appears to the court that for convenience, many parties first simply take the reduction of the 32,800 acre-feet for Early Transfers and start these calculations with 50,000 acre-feet of Ag Pool water.

1. That calculation is simply to start with the 50,000 acre-feet of unproduced/unpumped Ag Pool water and then subtract the amount 33,600 acre-feet that was actually pumped in this example. The result is 16,400 acre-

1 feet available for conversion claims.

2 2. Then subtract the 2,000 acre-feet for conversion claims to get the 14,400 acre-
3 feet of Ag Pool water available for allocation to the Appropriative Pool.

4 3. However, this procedure is inconsistent with the judgment and Peace
5 Agreements as interpreted by the court for the reasons stated above.

6 **The also court notes that the particular producer who serviced the converted acres
7 would actually be able to pump the additional conversion claim water as an
8 allocation.

9
10 EXAMPLE 2: The following example demonstrates complications arising
11 from a decrease in the amount of Ag Pool water available to the Appropriative Pool.
12 If the Ag Pool produced/pumped more than 48,000 AFY there would be no
13 available water for the Appropriative Pool.

| 14 Example 2 | | Comment |
|---|-------------------------|--|
| 15 Initial Ag Pool 16 allocation | 82,800 AFY | |
| 17 Ag Pool 18 production/pumping | 48,000 AFY | Assumption |
| 19 Initial balance after 20 production | 34,800 AFY | 82,800 acre-feet – 48,000 acre-feet = 34,800 acre-feet per year |
| 21 Conversion claims 22 23 | - 2000 acre- 24 feet | The subtraction for satisfying 25 conversion claims before any 26 reallocation. (1000 acres x 2.0 acre 27 feet of water/one acre converted = 28 2000 acre-feet). |
| Balance: | 32,800 AFY | 34,800 acre-feet – 2,000 acre-feet = 32,800 acre-feet per year. Ag Pool Water Available after conversion |

| | | |
|---|--------------|--|
| | | priority claims pursuant to Judgment Exhibit "H" Paragraph |
| Reduction for Early Transfers | - 32,800 AFY | Early Transfer of 32,800 AFY from 82,800 AFY allocation leaving 50,000 AFY for the Ag Pool itself to produce/pump. Any water which the Ag Pool did not produce/pump water up to the 50,000 AFY would be available for allocation to the Appropriative Pool pursuant to Peace I and Peace II. |
| Balance: Ag Pool water available after conversion priority claims and Early Transfers | 0 AFY | 32,800 acre-feet -32,800 acre-feet = 0 acre-feet per year. There would be no Ag Pool water available for reallocation to Appropriative Pool after subtraction of conversion priority claims of 2,000 acre-feet and the 32,800 Early Transfer of unproduced/unpumped from the allotment of Ag Pool water. |

Conclusion:

Under this scenario, the Appropriative Pool would not get any additional allocation from Ag Pool water

6. Regarding replenishment for the Desalters, Peace I ¶7.5 sets forth the hierarchy of sources of replenishment water for the Desalters as follows:

Replenishment Water. Replenishment for the Desalters shall be provided from the following sources in the following order of priority.

(a) Watermaster Desalter Replenishment account composed of 25,000

1 acre-feet of water abandoned by Kaiser pursuant to the "Salt Offset
2 Agreement" dated October 21, 1993, between Kaiser and the RWQB, and
3 other water previously dedicated by the Appropriative Pool.

4 (b) New Yield of the Basin, unless the water Produced and treated by
5 the Desalters is dedicated by a purchaser of the desalters water to offset the
6 price of the salted water to the extent of the dedication;

7 (c) Safe Yield of the Basin, unless the water Produced and treated by
8 the Desalters is dedicated by a purchaser of the the salted water to offset the
9 price of the salted water to the extent of the dedication;

10 (d) Additional Replenishment Water purchased by Watermaster, the
11 cost of which shall be levied as an Assessment by Watermaster.

12
13 C. The 2007 Peace II Agreement (Peace II)

14 1. Peace II Agreement Article VI-Groundwater Production by and
15 Replenishment for Desalters and Article VII-Yield Accounting further defined the
16 accounting for the Desalters and Desalter Production Offsets.

17 2. Peace II Paragraph 6.2(a)(iii) states as follows in pertinent part:
18 Peace II Desalter Production Offsets. To facilitate Hydraulic Control through
19 Basin Re-Operation, [court note: that is, water pumped as part of the 600,000
20 AF controlled overdraft] in accordance with the 2007 Supplement to the
21 OBMP Implementation Plan and the amended Exhibits G and I to the
22 Judgment, additional sources of water will be made available for purposes of
23 Desalter Production and thereby some or all of a Replenishment obligation.
24 With these available sources, the Replenishment obligation attributable to
25 Desalter production in any year will be determined by Watermaster as follows:

26 (a) Watermaster will calculate the total Desalter Production for the
27 preceding year and then apply a credit against the total quantity from: . . .

28 (iii) New Yield (other than Stormwater (Peace Agreement Section

1 7.5(b)); . . .

2 v) Safe Yield that may be contributed by the parties (Peace
3 Agreement Section 7.5(c));

4 (vi) any Production of groundwater attributable to the controlled
5 overdraft authorized pursuant to amended Exhibit I to the Judgment.
6 [The Judgment allowed for a temporary controlled overdraft, *i.e.*,
7 initially 200,000 AF and then an additional 400,000 AF total
8 production/pumping starting in 2007 and ending in 2026 without
9 replenishment, in order to achieve Hydraulic Control. (Safe Yield Reset
10 Implementation Desalter Replenishment Accounting Illustration (per
11 Peace II Agreement, Section 6.2 (PIIA, 6.2) and June 11, 2015 Key
12 Principles)–Exhibit C to Attachment 1, Watermaster’s Motion regarding
13 2015 Safe Yield Reset Agreement, Amendment of Restated Judgment,
14 Paragraph 6.]

15 Paragraph 7.1 provides as follows:

16 New Yield Attributable to the Desalters. Watermaster will make an annual
17 finding as to the quantity of New Yield that is made available by Basin Re-
18 Operation including that portion that is specifically attributable to the Existing
19 and Future Desalters. Any subsequent recalculation of New Yield as Safe
20 Yield by Watermaster will not change the priority set forth above for
21 offsetting Desalter production as set forth in Article VII, Section 7.5 of the
22 Peace Agreement. For the initial term of the Peace Agreement, neither
23 Watermaster nor the Parties will request that Safe Yield be recalculated in a
24 manner that incorporates New Yield *attributable to the Desalters* [emphasis in
25 original] into a determination of Safe Yield so that this source of supply will be
26 available for Desalter Production rather than for use by individual parties to
27 the Judgment.

28 2. Additionally, in 2007 Peace II ¶1.1(d) defined Re-Operation as “the

1 controlled overdraft [pumping without replenishment] of the Basin by the managed
2 withdrawal of groundwater Production for the Desalters and the potential increase in
3 the cumulative un-replenished Production from 200,000 [acre-feet] authorized by
4 paragraph 3 Engineering Appendix Exhibit I to the Judgment, to 600,000 acre-feet
5 for the express purpose of securing and maintaining Hydraulic Control as a
6 component of the Physical Solution.” The Peace II agreement amended the Restated
7 Judgment’s Engineering Appendix to specify the additional 400,000 acre-feet that
8 would be dedicated exclusively to the purpose of Desalter replenishment (Restated
9 Judgement Exhibit “I” §2(b)[3]).

10 3. Peace II, Paragraph 6.2(a)(iii) gives Watermaster a basis to calculate the
11 total Desalter production from the preceding year and then apply against that
12 production/pumping a “credit” (*i.e.*, a reduction) which included a number of
13 factors, including New Yield referencing Peace I, paragraph 7.5(b). This credit
14 procedure is an important issue going forward for the administration of water
15 allocations:

16 a) Peace I, paragraph 1.1(aa) defines New Yield as “proven increases in
17 yield in quantities greater than historical amounts from sources of
18 supply including, but not limited to, operation of the Desalters
19 (including the Chino I Desalter), induced Recharge and other
20 management activities implemented in operational after June 1, 2000.”

21 I) The court concludes that New Yield in the above paragraph means
22 water produced/pumped by the Desalters, because that is how yield is
23 always used, e.g., Safe Yield, Operating Safe Yield, etc., and the source
24 of supply is the Desalters as identified in the definition.

25 II) So, New Yield includes water produced/pumped by the Desalters.

26 b) Peace I, paragraph 1.1(nn) defines “Recharge and Recharge Water as
27 “introduction of water to the Basin, directly or indirectly,” Recharge
28 references the physical act of introducing water to the Basin.”

- 1 c) The conclusion of the court is that after Peace II, the definition New
2 Yield now includes both Desalter operation, *i.e.*, production/pumping
3 from the Desalters, and induced Recharge (*i.e.*, groundwater flowing
4 back into the Basin from the Santa Ana River as the result of Desalter
5 operation).
- 6 d) Peace II was consistent with Peace I. Peace II provided that the parties
7 would avoid some or all or a replenishment obligation for Desalter
8 production by getting credit/reduction against that production from
9 sources such as New Yield which includes induced Recharge.
- 10 I) Peace I defined New Yield to include “operation of the Desalters” and
11 “induced Recharge.”
- 12 II) The court concludes that the Peace I and Peace II when read together
13 recognized that some of the water which the Desalters
14 produced/pumped came from induced recharge form the Santa Ana
15 River.
- 16 III) Peace II was not explicit it stating that the Desalter production
17 offset should follow the priorities of Peace I ¶7.5, but the court
18 concludes that the replenishment water, *i.e.*, Desalter-induced recharge,
19 must follow the priorities of Peace I.
- 20 (a) The agreements must be read together and interpreted together
21 because they form a context for each other.
- 22 e) In its response to Judge Reichert’s questions, Chino argued that SYRA’s
23 failure to give a specific definition to “Desalter-induced recharge” was
24 purposeful because the failure allowed SYRA to use “Desalter-induced
25 recharge” synonymously with New Yield. The court does not find
26 “Desalter-induced recharge” to be synonymous with New Yield. The
27 court finds that “Desalter-induced recharge” is only synonymous with
28 “induced Recharge.” Therefore Desalter-Inducted Recharge is included

1 in the definition of New Yield, as set forth in Peace I ¶1(aa): “induced
2 Recharge and other management activities implemented in operational
3 after June 1, 2000” includes Desalter-induced recharge.

4 I) . The court further finds that “Desalter-induced recharge” and
5 “induced Recharge” mean water flowing back into the Basin from the
6 Santa Ana River due to production/pumping by the Desalters lowering
7 the ground water table in the Basin. Finally, the court notes that New
8 Yield includes Desalter production and Desalter-induced recharge.

9 (a) This result is exactly what the Desalters were designed to
10 accomplish. They have achieved Hydraulic Control, meaning they
11 have lowered the water table at the south end of the Basin, so that
12 only a de minimus amount of Basin water is flows into the Santa
13 Ana River.

14 (b) In fact the Desalters have accomplished their design objective so
15 well that now some water flows from the Santa Ana River into the
16 Chino Basin. The court finds that his water is New Yield as set
17 forth above.

18 II) The court further finds that “Desalter-induced recharge” aka “induced
19 Recharge” is measureable, part of which comes from the Santa Ana
20 River, and is set forth in Watermaster’s response to the court’s
21 questions. This water is also known as Santa Ana River Underflow or
22 SARU.

23 4. Peace II specified Desalter production/pumping replenishment to
24 include induced Recharge, controlled overdraft, and other sources set forth in Peace
25 II ¶6.2(a). The Peace I and Peace II agreements did not specify any additional
26 sources of Desalter replenishment, such as Ag Pool water or Safe Yield.

27 5. CONCLUSION:

28 Now, after Peace II, there were additional sources of water for the Basin, the

1 Desalter operation/Desalter-induced recharge, as well as the historical overdraft, as
 2 summarized below.

| Ag Pool water | | Comments |
|--|--|--|
| 4 1995 Judgment 5 amendment 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 | 82,800 AFY of the Ag Pool's water available to the Appropriate Pool with Appropriative Pool claims prioritized as follows: (1) to supplement, and the particular year, water available from Operating Safe Yield to compensate for any reduction in the Safe Yield by reason of recalculation thereof after the tenth year of operation hereunder. (2) pursuant to conversion claims as defined in Subparagraph (b) hereof. (3) as a supplement to Operating Safe Yield, without regard to reductions in Safe Yield. | |
| 25 2000 Peace I-Desalters 26 start construction and 27 pumping water 28 | Early Transfers of 32,800 AFY of Ag Pool water now go to the Appropriative Pool | New Yield (with conditions) is source of water to replenish water pumped by the |

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| | <p>(leaving 50,000 AFY to Ag Pool). The remaining Ag Pool water is subject to Appropriative Pool's prioritized claims. Peace I §1.1(aa) defines New Yield to include water produced/pumped from the Desalters.</p> | <p>Desalters. Water produced/pumped by the Desalters is New Yield and sourced by induced recharge and overdraft. As New Yield, water pumped by the Desalters is not Safe Yield or Safe Operating Yield. That water is "yield" attributable to specific sources of supply not included in Safe Yield.</p> <p>(Watermaster's Response to Order for Additional Briefing, page 5, line 22-23.)</p> <p>Therefore at the time of Peace I Desalter operations did not affect Safe Yield or Operating Safe Yield. Water produced/pumped by the Desalters was not added to or subtracted from yield of the Basin.</p> <p>Water</p> |
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| | | produced/pumped by the Desalters had a separate allocation. |
| 2007 Peace II-overdraft increased | Additional 400,000 AF above the 200,000 AF provided in the Judgment for a total of 600,000 AF. | This is a diminishing pumping allocation as the overdraft goes to 0 in 2017. Its purpose was to help establish Hydraulic Control. |
| Peace II Desalters | Peace II ¶7.1 requires Desalter production (defined as New Yield) excluded from the definition of Safe Yield. However, Peace II Article VI identifies offsets for Desalter production, which includes New Yield the meaning of which includes induced Recharge. (Peace I, ¶1.1(aa).) | Desalter production reaches above 20,000 AFY. Watermaster's Response to Order for Additional Briefing, Exhibit 1. |

The court concludes that Peace II did not change any of the priorities for claims on actual water production. Peace II addressed Desalter replenishment and production/pumping but did not affect the priorities for allocations of unproduced Ag Pool water.

1 **V. SYRA ARTICLE 5-STORMWATER RECHARGE PLAN AND**
2 **WATERMASTER ACCOUNTING ANALYSIS**

3 In the instant motion, Watermaster asks the court to approve 1) a stormwater
4 recharge plan, and 2) an accounting for allocation transfers as set forth in the Safe
5 Yield and Reset Agreement (SYRA). The court will address these proposals
6 separately.

7 A. Stormwater Recharge–SYRA ¶5.1

8 1. Although there have been no objections to this aspect of SYRA, the
9 court denies its enforcement because the court finds that SYRA’s provisions
10 regarding anything other than they Safe Yield reset cannot be severed for the reasons
11 set forth in Section II above.

12
13 B. Desalter-Induced Recharge Allocations, Early Transfers, Land Use
14 Conversion–SYRA ¶5.2 and SYRA ¶5.3.

15 1. Because these provisions are major sources of contention among the
16 parties, the court will set them forth in their entirety.

17 SYRA ¶5.2 sets forth the following provisions regarding Desalter Induced
18 Recharge, and SYRA ¶5.3 sets forth the following provisions regarding Post 2030
19 Land Use Conversions and Early Transfers.

20 5.2 Desalter-Induced Recharge. After the Effective Date and until
21 termination of this Agreement, the parties expressly consent to Watermaster’s
22 accounting for Basin recharge arising from or attributable the Desalters as
23 follows:

24 (a) 2001-2014 Desalter-Induced Recharge. Induced recharge that
25 arises from or is attributable to the Desalters for the period of production
26 years 2001-2014 shall be accounted for as Safe Yield, in the manner it has been
27 distributed through approved Watermaster Assessment Packages, shall not be
28 considered New Yield, and shall not be considered to have been available for

1 production by the Desalters.

2 (b) 2015-2030 Desalter-Induced Recharge. For the production years
3 of 2015- 2030, Watermaster shall account for induced recharge that arises
4 from or is attributable to the Desalters as equal to fifty (50) percent of the total
5 Desalter Production during each applicable production year up to a maximum
6 of twenty-thousand (20,000) AFY of recharge. Consistent with Paragraph
7 6.2(a)(iii) of the Peace II Agreement, Watermaster shall deem the induced
8 recharge as having been produced by the Desalters. During each applicable
9 production year, Watermaster shall reduce Safe Yield by an amount equal to
10 fifty (50) percent of the total Desalter Production, up to a maximum of
11 twenty-thousand (20,000) AFY, and require a corresponding supplementation
12 by the reallocation of available unproduced Agricultural Pool's share of the
13 Basin's Safe Yield.

14
15 Claims for reallocation of the remaining unproduced quantity of the
16 Agricultural Pool's share of Safe Yield shall be satisfied consistent with section
17 6.3(c) of Watermaster's Rules and Regulations, as amended as part of the
18 Peace II Measures, and the October 8, 2010 Order Approving Watermaster's
19 Compliance with Condition Subsequent Number Eight and Approving
20 Procedures to be used to Allocated Surplus Agricultural Pool Water in the
21 Event of a Decline in Safe Yield.

22 (c) 2031-2060 Desalter-Induced Recharge. Should the term of the
23 Peace Agreement be extended pursuant to Paragraph 8.4 thereof, the
24 treatment of Desalter-Induced Recharge shall be subject to the negotiation of
25 a new and separate agreement among the Parties to the Judgment. The
26 accounting provided for in Section 5.2(b), above, shall be without prejudice to
27 the negotiation of such a new and separate agreement among the Parties to the
28 Judgment. Unless otherwise agreed by the Parties or ordered by the court,

1 during the extension term, Watermaster shall not consider such recharge to
2 require supplementation by the reallocation of a portion of the unproduced
3 Agricultural Pool's share of Safe Yield.

4
5 5.3 Post-2030 Priority among Land Use Conversion and Early Transfer
6 Claims. At the expiration of the Peace II Agreement, the Peace II provisions
7 relating to the distribution of surplus water by the Agricultural Pool requiring
8 that claims for the Early Transfer of 32,800 AFY and for Land Use
9 Conversion be treated equally are expressly repealed including (i) the
10 amendment to Section 6.3(c) of Watermaster's Rules and Regulations,
11 pursuant to the Peace II measures, and (ii) Section III.(6) of the October 8,
12 2010 Order Approving Watermaster's Compliance with Condition Subsequent
13 Number Eight and Approving Procedures to be used to Allocate Surplus
14 Agricultural Pool Water in the Event of a Decline in Safe Yield. In any Peace
15 Agreement extension term, the previous changes to Restated Judgment,
16 Exhibit "H", Paragraph 10(b)(3)(i) effectuated by Paragraph 4.4(c) of the
17 Peace Agreement, which, to the extent sufficient unallocated Safe Yield from
18 the Agricultural Pool is available for conversion claims, allocate 2.0 acre-feet
19 of unallocated Safe Yield water for each converted acre, shall remain in effect.
20

21 C. The court summarizes the effect of these SYRA proposals ¶5.2 and ¶5.3 as
22 follows:

| Ag Pool water | | Comments |
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| 1995 Judgment amendment | 82,800 AFY of the Ag Pool's water available to the Appropriate Pool with Appropriative Pool claims prioritized as follows: | |

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| | <p>(1) to supplement, and the particular year, water available from Operating Safe Yield to compensate for any reduction in the Safe Yield by reason of recalculation thereof after the tenth year of operation hereunder.</p> <p>(2) pursuant to conversion claims as defined in Subparagraph (b) hereof.</p> <p>(3) as a supplement to Operating Safe Yield, without regard to reductions in Safe Yield.</p> | |
| <p>2000 Peace I-Desalters start construction and pumping water</p> | <p>Early Transfers of 32,800 AFY of Ag Pool water now goes to the Appropriative Pool (leaving 50,000 AFY to Ag Pool). The remaining Ag Pool water is subject to Appropriative Pool's prioritized claims.</p> | <p>New Yield (with conditions) is source of water to replenish water pumped by the Desalters. Therefore Desalters do not affect Safe Yield or Operating Safe Yield. Water produced/pumped by the Desalters is not added to or subtracted from Safe Yield or</p> |

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| | | Operating Safe Yield of the Basin. |
| 2007 Peace II-overdraft increased | Additional 400,000 AF above the 200,000 AF provided in the Judgment for a total of 600,000 AF. | This is a diminishing pumping allocation as the overdraft goes to 0 in 2017. |
| <p>SYRA proposal: (see column to right for <i>Steps 1-3</i>):</p> <p><i>Step 4</i>: SYRA ¶5.2(b) subtracts 50% of total Desalter production up to 20,000 AFY from Ag Pool Water and then adds that 50% of total Desalter production up to 20,000 AFY to Safe Yield (to make up for the subtraction in <i>Step 3</i>).*</p> | <p>SYRA proposal <i>Step 1</i>: The Desalter production/pumping up to 20,000 AFY is allocated to the Desalters, not as Safe Yield or Safe Operating Yield [or New Yield].</p> <p><i>Step 2</i>: Under SYRA ¶5.2(b) one-half of the source of Desalter production up to 20,000 AFY is attributed to “Desalter-induced recharge.” Desalter-induced Recharge means water flowing back into the Basin from the Santa Ana River.</p> <p><i>Step 3</i>: SYRA then subtracts the other half of Desalter production up to 20,000 AFY from Safe Yield.</p> | |
| <p>Additional SYRA Effects: <i>Step 5</i> (see above for <i>Steps 1-4</i>)</p> <p>The Ag Pool water allocation is reduced by up to 20,000 AFY for the Desalters.</p> | | |

1 SYRA is unclear where the priority lies with respect to priority of allocation as
 2 required by Judgment Exhibit “H” Paragraph 10. The court orders that those
 3 priorities must be followed. Because the court has ordered that those priorities be
 4 followed, court concludes that it cannot order these provisions of SYRA in
 5 addition to SYRA’s not being severable. At best SYRA is ambiguous with respect
 6 to following the priorities set by the Judgment and the Court Approved
 7 Management Agreements. At worst, SYRA contradicts them.

8 *So, the court concludes that previous to SYRA, the Desalter water
 9 production/pumping could be offset from a prioritized list of sources including New
 10 Yield (induced recharge). Now under SYRA:

11 1) All of the induced recharge gets allocated to water produced/pumped by
 12 the Desalters.

13 2) Watermaster reduces Safe Yield by 50% of the Desalter production up to
 14 20,000 AFY.

15 3) Then, Watermaster adds to Safe Yield 50% of the Desalter production up
 16 to 20,000 AFY, from water allocated to the Ag Pool, to make up for (aka backfill) the
 17 reduction in Safe Yield allocated to Desalter production.

18 4) This means that the availability of Ag Pool water goes down and thereby the
 19 availability of unproduced Ag Pool water for the priorities set forth in the Judgment
 20 and the Court Approved Management Agreements. The priorities are also set forth in
 21 Watermaster Rules and Regulations ¶6.3(a).

22 5) Elaborating on Example 1-A from Section IV.B.5 of this order above, the
 23 court’s analysis is as follows

| Example 1-B | Explanation | Comment |
|----------------------------|--------------|--|
| Initial Ag Pool allocation | 82,800 AFY | Judgment |
| Ag Pool production/pumping | - 33,600 AFY | Assumption based the current credited production (pumping) |

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| | | for agricultural groundwater is about 33,600 AFY, but that includes agricultural land irrigated with reclaimed water. [The actual groundwater production for agricultural purposes is about 22,000 AFY. Jurupa Services District's response to Judge Reichert's Request for Clarification, March 22, 2016 page 2, lines 8–10.] |
| Initial balance after production | 49,200 AFY | 82,800 acre-feet – 33,600 acre-feet = 49,200 acre-feet |
| Conversion claims | - 2000 acre-feet | Assumption: The subtraction for satisfying conversion claims before any reallocation. (1000 acres x 2.0 acre feet of water/one acre converted = 2000 acre-feet). |
| Balance: | 47,200 AFY | 49,200 acre-feet - 2000 acre-feet = 47,200 acre-feet. Ag Pool Water available after conversion priority claims pursuant to Judgment Exhibit "H" Paragraph 10 |
| Reduction for Early Transfers | - 32,800 AFY | Basic Early Transfer from 82,800 AFY allocation leaving 50,000 AFY for the Ag Pool itself to produce/pump and for |

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| | | additional claims by the Appropriative Pool pursuant to Peace I and Peace II.* |
| Balance | 14,400 AFY | (47,200 acre-feet - 32,800 acre-feet = 14,400 acre-feet. This is the Ag Pool water available for reallocation to Appropriative Pool after subtraction of conversion priority claims of 2,000 acre-feet from and the 32,800 Early Transfer of unproduced/unpumped from the allotment of Ag Pool water. |

Now, to examine the effect of SYRA on the Appropriative Pool:

| | | |
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| Starting balance available Ag Pool water | 14,400 AFY | Total Ag Pool water available for production/pumping from the example above |
| Desalter reallocation | - 20,000 AFY | SYRA Desalter reallocation: 20,000 AFY of Desalter production is allocated from Ag Pool water to Safe Yield. |
| Balance: | - 5,600 AFY | A negative amount. This plausible scenario assumes 2,000 AFY of conversion claims. The negative balance shows that this scenario under SYRA would not leave sufficient Ag Pool water for |

that amount of conversion claims. In order to meet conversion claims and Early Transfer allocations, the Ag Pool would only be able to produce/pump 26,000 AFY, well below their current credited pumping. Calculation follows:

$$82,800/\text{initial allocation}$$

$$- 26,000/\text{pumped} = 56,800$$

$$56,800 - 2,000/\text{conversion claims} = 54,800$$

$$54,800 - 32,800/\text{Early Transfer} = 20,000$$

$$20,000 - 20,000/\text{Desalter reduction from Ag Pool Allocation} = 0$$

The court concludes that there is no basis in the Judgement or any of the Court Approved Management Agreements for the post SYRA result identified in the plausible scenario above.

D. Further Analysis and orders:

1. In addition to SYRA's not being severable, the court denies Watermaster's motion with respect to the implementation of ¶5.2 and ¶5.3 of SYRA for the following reason:

- a) The court concludes that SYRA paragraphs 5.2 and 5.3 fundamentally change the allocations of Appropriative Pool and of Ag Pool water. Those fundamental changes are inconsistent with the Judgment and the

1 Court Approved Management Agreements

2 b) Peace I and Peace II both define Desalter production as within the
3 definition of New Yield and therefore outside of the definition of Safe
4 Yield. Through a several step re-allocation reassignment described
5 above and summarized in this section of the court's order, SYRA now
6 moves Desalter production into Safe Yield. The parties have not
7 demonstrated any legal ~~or practical requirement~~ **basis** which allows this.
8 Peace I and Peace II prohibit this.

9 c) The court concludes that Peace II Agreement Paragraphs 6.2(a)(iii) and
10 7.1 provide that through 2030 (the initial term of Peace I Agreement as
11 set forth in ¶8.2) recharge attributable to the Desalters is allocated for
12 Desalter Production and not allocated as Safe Yield producible (*i.e.*,
13 water available to be pumped without a replenishment obligation by
14 purchase or otherwise).

15 I) Peace II ¶7.1 excluded New Yield attributable to the Desalters from
16 a determination of Safe Yield, at least for the 30 year term of Peace
17 Agreement.

18 II) Peace I ¶1.1(aa) defines New Yield to include induced recharge.

19 (a) The court finds that induced recharge includes Desalter-
20 induced recharge.

21 III) The court finds that Peace I ¶7.5 defines replenishment water for
22 the Desalters includes New Yield, but not Safe Yield.

23 IV) The court finds that Peace II ¶7.1 states that no party can
24 incorporate New Yield attributable to the Desalters into Safe Yield.

25 (a) In contradiction to Peace I and Peace II, SYRA ¶5.2(a)
26 explicitly defines Desalter-induced recharge as Safe Yield, in
27 contradiction to Peace I and Peace II.

28 V) In contradiction to the Peace I and Peace II, the court finds that

1 SYRA attempts to incorporate New Yield from the Desalters into
2 Safe Yield through the accounting method of 1) taking Desalter
3 induced yield water coming from Desalter-induced recharge, then 2)
4 moving that water into Safe Yield, then 3) backfilling Safe Yield
5 from unproduced Ag Pool water.

6 (a) This is an unacceptable circumvention of the court's orders
7 based on Peace I and Peace II.

8 d) The analysis above shows that these SYRA provisions are contrary to
9 the Judgment and the Court Approved Management Agreements,
10 specifically Peace I and Peace II. These SRYA provisions can prevent
11 the application of the Judgment provisions regarding conversion claims.
12 They are invalid.

13 e) There is no basis in the Judgment or the Court Approved Management
14 Agreements for the attribution of water production from Desalters into
15 the definition of Safe Yield.

16 f) There is no basis in the Judgment or any of the Court Approved
17 Management Agreements for the splitting and reallocation of Desalter
18 production/pumping to one-half to Desalter-induced recharge and one-
19 half to Safe Yield.

20 g) There is no basis in the Judgment or any of the Court Approved
21 Management Agreements to reallocate Ag Pool water to Safe Yield to
22 make up for the Safe Yield reallocated to the Desalters.

23 h) Due to the Desalters, there is now recharge coming from the Santa Ana
24 River back into the Chino Basin. SYRA Paragraph 5.2(b) takes the
25 Peace I and Peace II agreements one step—wrongfully—farther by
26 identifying how this recharge quantity will be estimated, *i.e.*, 50% of
27 Desalter Production, and then further specifies that amount of recharge
28 will be allocated to Desalter production and not to the parties as part of

1 their allocation of the Safe Yield. There is no legal basis in the
2 Judgment or the Court Approved Management Agreements for this
3 redefinition of Safe Yield to include of 50% of Desalter Production up
4 to 20,000 AFY through a mechanism of passing the amounts through
5 the Appropriative Pool allocation.

6 i) SYRA attempts now to remove the special exception for New Yield
7 from Desalter induced recharge and production and incorporate it into
8 Safe Yield. The mechanism by which SYRA attempts to do this is by 1)
9 taking half of the Desalter production and sourcing that
10 production/pumping from Desalter induced recharge from the Santa
11 Ana River and 2) sourcing the other half from the Appropriative Pool
12 through unproduced Ag Pool water. The court concludes and finds
13 that this attempt is not justified because it can interfere with the priority
14 of claims on unproduced Ag Pool water set forth in the judgment and
15 the Court-Approved Management Agreements.

16 I) The court notes that Peace II, Article VII-Yield Accounting, ¶7.2(d)
17 discusses a contingency if Western Municipal Water District
18 (WMWD) and the Appropriative Pool “do not reach agreement on
19 apportionment of controlled overdraft of Future Desalters, then no
20 later than August 31, 2009, the members of the Appropriative Pool
21 will submit a plan to Watermaster that achieves the identified goals
22 of increasing the physical capacity of the Desalters and potable water
23 use of approximately 40,000 acre-feet of groundwater production
24 from the Desalters from the Basin no later than 2012.”

25 II) The court concludes that the Desalter production of 40,000 acre-feet
26 has been under discussion since Peace II in 2007.

27 III) However, the court cannot accept the resolution set forth in
28 SYRA for the reasons stated in this order.

- 1 j) SYRA ¶5.2 and ¶5.3 contradict and conflict with Peace I and Peace II.
- 2 I) Peace II ¶7.1 requires neither Watermaster nor the parties to request
- 3 that safe yield be recalculated in a manner that incorporates New
- 4 Yield *attributable to the Desalters* into the determination of Safe Yield
- 5 so that this source of supply will be available for Desalter
- 6 Production rather than for use by individual parties to the judgment.
- 7 (Emphasis in original.)
- 8 II) SYRA now includes New Yield in the determination of Safe Yield in
- 9 two ways.
- 10 (a) First, SYRA takes up to 20,000 AFY away from Safe Yield
- 11 through Desalter Production.
- 12 (b) Second, SYRA adds back up to 20,000 AFY to Safe Yield
- 13 from unproduced Ag Pool water.
- 14 (c) The net change to Safe Yield is 0, but available Ag Pool water
- 15 for allocation is reduced up to 20,000 AFY. This re-allocation
- 16 and re-accounting, is not justified or supported in the Peace I,
- 17 Peace II, Watermaster Rules and Regulations, or the court's
- 18 orders of implementation, the Judgment, or the CAMAs.
- 19 (d) The following chain shows SYRA's violations of the previous
- 20 orders:
- 21 (i) Desalter-induced recharge is New Yield. (Peace
- 22 ¶1(aa).)
- 23 (ii) Peace II ¶7.1 prevents New Yield from being
- 24 incorporated within Safe Yield.
- 25 (iii) SYRA moves 20,000 AFY of Desalter-induced
- 26 recharge to the Ag Pool.
- 27 (iv) Then SYRA moves the 20,000 of Desalter-induced
- 28 recharge (now characterized as Ag Pool Water) into

1 Safe Yield.

2 (v) Therefore, SRYA recalculates Safe Yield to incorporate
3 New Yield in violation of Peace II ¶7.1

4 (vi) Moving the 20,000 AFY of Desalter-induced Recharge
5 through the portal of the Ag Pool water does not
6 change its definition of New Yield.

7 k) The court does not find a legal ~~or factual basis~~ for determining a post-
8 2030 priority among land use conversion and early transfer claims. The
9 priority is set forth in the judgment and as specified in this order

10 l) In addition to SYRA's not being severable, the court's 2010 order does
11 not require the implementation of ¶5.2 or ¶5.3.

12 Section III.(6) of the October 8, 2010 order states:

13 Watermaster is ordered to utilize the procedures regarding the re-
14 allocation of surplus Agricultural Pool water the event of a
15 decline in Safe Yield as described in the December 2008 staff
16 report and the December 4, 2008 memorandum from legal
17 counsel. Specifically, in the event that Operating Safe Yield is
18 reduced because of a reduction in Safe Yield, Watermaster will
19 follow the hierarchy provided for in the Judgment, exhibit "H,"
20 by first applying the unproduced Agricultural Pool water to
21 compensate Appropriative Pool members for the reduction in
22 Safe Yield. (Judgment, Exhibit "H," paragraph 10 (a).) If there
23 is unallocated water left, Watermaster will then follow the
24 remainder of the hierarchy and reallocate unallocated Agricultural
25 Pool water next to conversion claims then to supplement the
26 Operating Safe Yield without regard to reductions in Safe Yield
27 according to the guidance provided by Peace Agreement I & II
28 and Watermaster's rules and regulations as amended. If, after

1 applying the unallocated Agricultural Pool water to compensate
2 the Appropriate Pool members for the reduction in Safe Yield,
3 the actual combined production from the Safe Yield made
4 available to the Agricultural Pool, which includes overlying
5 Agricultural Pool uses combined with land use conversions and
6 the Early Transfer, exceeds 82,800 in any year, the amount of
7 water available to members of the Appropriative Pool shall be
8 reduced pro rata in proportion to the benefits received according
9 to the procedures outlined in Watermaster Rules and
10 Regulations.

11 I) In considering the reference to Watermaster Rules and
12 Regulations in the preceding paragraph, if the order is vague, the court
13 now clarifies it. In the instant order, the court has clarified that
14 Watermaster must follow the priorities set forth in the Judgment for
15 allocations of unproduced Ag Pool water.

16 II) The court has the continuing jurisdiction to interpret and apply
17 its previous orders in light of changing circumstances. In light of the
18 instant motion, the court is doing so.

19 III) JCSD correctly points out that pursuant to the Judgment
20 ¶15 the court is authorized “to make such further or supplemental
21 orders or directions as may be necessary or appropriate for
22 interpretation, enforcement or tearing out of this judgment”

23 IV) Because there has not been a reset in Safe Yield, the court
24 does not find that there has been a detrimental reliance on the court’s
25 October 8, 2010 Order. This would not be the first time that the
26 court’s orders and interpretations thereof have the subject of further
27 litigation.

28 V) Watermaster’s further response to order for additional briefing,

1 filed April 11, page 3, lines 15-19 states:

2 Both responses provided by the City of Chino and JCSD omit
3 the key fact: Section 6.3(c) Watermaster Rules and Regulations,
4 as amended pursuant to Peace II measures provides that water
5 unused by members of the Agricultural Pool shall be divided
6 equally between Land Use Conversions and Early Transfers. The
7 Court's October 8, 2010 Order provides that this shall be done
8 even if the safe yield declines. For the first time, approximately
9 five years following this Order, the City and JCSD would set it
10 aside and thereby unwind accounting, court approvals, and
11 agreements impliedly if not expressly made in reliance thereon.

12 m) No party has offered any specific detriment that would occur from the
13 court's instant orders regarding the priorities.

14 n) Watermaster is relying on its own interpretation of its own rules and
15 regulations which the court does not accept for the reasons set forth
16 herein. The court has clarified its October 8, 2010 Order.

17 I) Watermaster cannot use its own interpretations of the court's
18 orders to contradict the court's interpretation. The final decision is the
19 court's, not Watermaster's.

20 II) If there is any ambiguity that Watermaster finds the current
21 circumstances for the application of that Order III.(6) the court clarifies
22 it now. SYRA's reference to that order's provision does not help in its
23 clarification or application.

24 III) Watermaster argues that "in the event that Operating Safe
25 Yield is reduced because of a reduction in Safe Yield, Watermaster will
26 follow the reallocation hierarchy provided for in the Appropriative Pool
27 Pooling Plan by first applying the unallocated Ag Pool water to
28 compensate the Appropriate Pool members for the reduction in safe

1 yield. (Restated Judgment, exhibit “H), paragraph 10 (a).) If, thereafter,
2 there is unallocated water left, Watermaster then followed the
3 remainder of the hierarchy and reallocate unallocated agricultural Pool
4 water next to land use conversion claims and Early Transfer, and then
5 to supplement the Operating Safe Yield without regard reductions in
6 safe yield.” (Watermaster’s Reply to Oppositions to Motion regarding
7 2015 Safe Yield Recent Agreement, Amendment Restated Judgment,
8 Paragraph 6, page 24, lines 7-14.)

9 IV) This argument equates land use conversion claims and
10 Early transfer claims. This argument is incorrect for the reasons stated
11 herein. Additionally:

12 (a) The court’s order filed October 8, 2010, paragraph III.(6)
13 is quoted in full in section “I” above:

14 (b) This paragraph III.(6) provides no basis to equate land use
15 conversions and Early Transfers. The specific language of the
16 order requires Watermaster to follow the hierarchy in Judgment,
17 Exhibit “H” which does not include, or even mention, Early
18 Transfers. Early transfers were an aspect of Peace I, and the
19 court has interpreted and ordered the hierarchy to require
20 conversion claims to have priority over Early Transfer claims.

21 o) Additionally, the court rejects and denies the implementation of SYRA
22 ¶5.3 specifically because, as with SYRA ¶5.2, this provision has the
23 same problems of interpretation of the court’s 2010 Order Approving
24 Watermaster’s Compliance with Condition Subsequent Number Eight
25 and Approving Procedures to be used to Allocate Surplus Agricultural
26 Pool Water in the Event of a Decline in Safe Yield.

27 p) Watermaster’s erroneous interpretation of the order of priorities is not a
28 basis to continue that erroneous interpretation. If Watermaster has to

1 make a reallocation, then it must do so in order to follow the court's
2 order. A wrong practice can be long-standing, and still be wrong. A
3 wrong practice cannot be a basis of prejudice.

4 q) The court rejects any argument that this issue is subject to issue
5 preclusion. The specific issues raised by the oppositions to the motion
6 have not been specifically addressed by the court. They are not barred
7 by laches. The issues have been timely raised within the context of the
8 instant motion, and the court always retains jurisdiction to modify its
9 orders as those orders are drawn to the attention of the court, and the
10 court determines they require modification for the reasons set forth in
11 this order.

12
13 E. Dispute re priority of claims

14 A dispute has arisen concerning the priority of claims. The dispute concerns
15 the priority of allocation claims to unproduced/unpumped Ag Pool water. The 1978
16 Judgment, Exhibit "H," Paragraph 10 was very specific as set forth in section A of
17 this ruling above. For convenience, it is repeated here.

18 Paragraph 10 described "Unallocated Safe Yield Water" as follows:

19 To the extent that, in any 5 years, any portion of the share of Safe Yield
20 allocated to the Overlying (Agricultural) Pool is not produced, such
21 water shall be available for reallocation to members of the
22 Appropriative Pool as follows:

23 (a) Priorities. Such allocation shall be made in the following sequence:

24 (1) to supplement, and the particular year, water available from
25 Operating Safe Yield to compensate for any reduction in the Safe Yield
26 by reason of recalculation thereof after the tenth year of operation
27 hereunder.

28 (2) pursuant to conversion claims as defined in Subparagraph (b)

1 hereof.

2 (3) as a supplement to Operating Safe Yield, without regard to
3 reductions in Safe Yield.”

4 Confusion has arisen with respect to the relationship between the Judgment,
5 Exhibit “H,” Paragraph 10 on the one hand, and Watermaster Rules and Regulations
6 ¶6.3(a) on the other. Watermaster Rules and Regulations ¶6.3(a) states as follows:

7 Accounting of Unallocated Agricultural Portion of Safe Yield. In each
8 year, the 82,800 acre-feet being that portion of the Safe Yield Made
9 available to the Agricultural Pool under the Judgment, shall be made
10 available:

- 11 (i) To the Agricultural Pool to satisfy all demands for overlying
12 Agricultural Pool lands;
- 13 (ii) To land-use conversions were completed prior to October 1,
14 2000;
- 15 (iii) To land use conversions that have been completed after October
16 1, 2000; and
- 17 (iv) To the Early Transfer of 32,800 acre-feet from the Agricultural
18 Pool to the Appropriative Pool in accordance with their pro-rather
19 assigned share of Operating State Yield.

20 The confusion arises because Watermaster Rules and Regulation ¶6.3(a) does
21 not explicitly confirm the priority of allegations set forth in the Judgment and as
22 ordered by the court.

23 Chino has argued that

24 [T]he members of the Appropriative Pool have received the right to
25 participate in annual allocations of the Unproduced Agricultural Pool
26 Water instead of every five years called “Early Transfers” (Paragraph
27 5.3(f-g), Peace Agreement) and the right to an equal priority of Early
28 Transfers with Land Use Conversion Claims, which have a higher

1 priority under the Judgment, in order to maximize the amount of their
2 Early Transfer water to the appropriators do not have Land Use
3 Conversion Claims. (Paragraph 3.1(a)(i) and Attachment “F”, Peace II
4 Agreement). City of Chino’s Opposition Watermaster Motion
5 regarding 2015 Safe Yield Reset Agreement, Amendment of Restated
6 Judgment, Paragraph 6, page 13, lines 19-25.

7 Attachment “F” refers to the Watermaster Rules and Regulations 6.3(c). As
8 stated above, the court finds Watermaster Rules and Regulations 6.3(c) ambiguous.

9 The court finds that the Judgment must govern and take priority and
10 precedent for the interpretation of any Watermaster rule or regulation, including
11 Watermaster Rules and Regulations 6.3(c).

12
13 **At this time, the court additionally orders as follows:**

14 A. The order of priorities set forth in the Judgment, Exhibit “H,” Paragraph
15 10 must be followed; and

16 B. Watermaster Rules and Regulations ¶ 6.3, and particularly ¶¶6.3(a) and (c),
17 are to be interpreted to follow the priorities set forth in Judgment, Exhibit “H,”
18 Paragraph 10. In particular, the court orders conversion claims are to receive a
19 higher priority than Early Transfer claims for the following reasons:

20 (1) The conversion claims are set forth in the judgment;

21 (2) Early Transfer claims were a creation of Peace I;

22 (3) Early Transfer claims did not affect the priority of claims set forth in
23 the judgment;

24 (4) Early Transfer claims were ordered after the judgment and so must
25 be considered subordinate to the original terms of the judgment.

26 (5) The parties to Peace I made their agreement in the context of the
27 judgment and therefore used the Judgment priorities as a basis for additional
28 allocations of Ag Pool water.

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3 **VI. SAFE STORAGE MANAGEMENT MEASURES**

4 A. Through the facilitation and nondisclosure agreement (FANDA) Watermaster
5 attempted to facilitate an agreement among all parties avoid an accelerated
6 cumulative draw on Excess Carry Over stored water in order to avoid undue risks.
7 SYRA had provisions to establish a mechanism for a safe storage reserve of 130,000
8 AF of water in the non-Supplemental Water storage accounts of the members of the
9 Appropriative Pool as a reserve sufficient to protect the Basin. However, the
10 concern for basin protection was balanced with temporary needs in the event of an
11 emergency or to support Desalter Replenishment. Up to 100,000 AF could be
12 accessed in the event of an emergency subject to conditions

- 13 a) The plan which Watermaster attempted to facilitate is identified in
14 SYRA as “the safe storage reserve and safe storage management plan”
15 or the safe storage management measures (SSMM).
16 b) The City of Chino (Chino) has the largest component of Excess Carry-
17 Over water and was the most significantly affected party.
18 c) Chino refused to agree to SSMM.

19
20 B. The court rejects the adoption of the Safe Storage Management Measures set
21 forth in the SYRA Article 6. The court is not going to set forth the provisions of
22 SYRA Article 6 because the court is rejects the article as a whole.
23

24 C. The court rejects Article 6 of SYRA for the following reasons:

- 25 1. SYRA is not severable as set forth above.
26 2. Watermaster states that access to safe storage in the short term is
27 extremely remote.
28 3. The volume in stored water accounts of Appropriative Pool members is

1 about 357,000 AF as of June 30, 2014.

2 4. The Judgment Parties presently lack the infrastructure capability (wells
3 and pipelines) that would produce the quantity of water from storage that would
4 trigger production from the safe storage reserve that is identified in SYRA.

5 5. Article 6 is essentially a statement of intent without specificity of
6 implementation. The court refuses to consider or authorize an inchoate plan.

7 a) Although Watermaster argues that the Safe Storage Management
8 Agreement provisions are still subject to “stakeholder process get to be
9 initiated” (Watermaster’s Reply to Oppositions to Motion regarding
10 2015 Safe Yield Reset Agreement, Amendment of Restated Judgment,
11 Paragraph 6, page 1, line 18), the court does not approve policy
12 statements and therefore rejects any implementation.

13 6. The Safe Storage Technical Memorandum (Exhibit E to the motion)
14 does not set forth a factual basis for the court to order the parties to proceed with
15 the provisions of Article 6. While the memorandum states that the SSMM will not
16 cause Material Physical Injury or undesirable results, the memorandum does not
17 include that the SSMM are essential to the OBMP.

18 7. The court notes that from 2000 to 2014, the short-term actual measured
19 net recharge was less total rights allocated to the judgment Parties by as much as
20 130,000 AF.

21 a) From this the court concludes that during this period from 2000 to
22 2014, after offsets for production, there was recharge to the basin in
23 excess of what water was actually produced by as much as 130,000 AF.

24 b) This recharge was accounted for in the storage of Excess Carry-Over
25 water.

26 8. The court does not reach the arguments of Chino that the SSMM
27 constitutes a “taking”.

28 9. The safe storage measures are not required by the physical solution of

1 the Judgment, Peace I, Peace II, the court approved management agreements, the
2 OBMP, the court orders of implementation, or Article X, section 2 of the California
3 Constitution.

4
5
6 **VII. The Safe Yield Reset and Ag Pool Water: Recalculation**

7 A. The court finds that the Safe Yield reset to 135,000 AFY is a “recalculation”
8 within the definition of Judgment, Exhibit “H” ¶10.

9 1. SYRA used the term “reset” to describe lowering the Safe Yield to
10 135,000 AFY.

11 a) Now that the court has rejected all of SYRA except the lowering of Safe
12 Yield to 135,000 AFY, the court finds that “reset” is a legally unjustified
13 and legally incorrect term for describing the lowering the Safe Yield to
14 135,000 AFY. For the reasons stated herein, the court finds that
15 lowering the Safe Yield to 135,000 is a recalculation within the
16 definition of Judgment, Exhibit “H” ¶10(a)(1). For the rest of this
17 order, the court will correctly use the term recalculation for lowering the
18 Safe Yield from 140,000 AFY to 135,000 AFY.

19 b) Wildermuth himself calls it a recalculation. Exhibit 1 to his declaration
20 is entitled Declaration of Mark Wildermuth-2013 Chino Basin
21 Groundwater Model Update and *Recalculation* of Safe Yield Pursuant to
22 all the Peace Agreements. [Emphasis added.]

23 c) The recalculation to 135,000 is pursuant to the “tenth year” of
24 operation evaluation required by the Judgment.

25 d) Watermaster and the City of Ontario argue to the contrary, but the
26 “reset” lowering of Safe Yield fits any ordinary definition of the word
27 “recalculation.”

28 I) The whole point of the SYRA motion, related motions, and series of

1 hearings has been for the court to determine how to integrate the
 2 reduction of the Safe Yield from 140,000 AFY to 135,000 AFY.
 3 The court finds this reduction to be a recalculation of the Safe Yield
 4 into the current reality of the Chino Basin.

5 (a) In the context of SYRA, the use of the term “reset” might have
 6 made some legal sense. However, now that the court has
 7 rejected everything but the reduction, the label “reset” has no
 8 basis in fact or law.

9 II) The court cannot find any other way to reconcile these provisions and
 10 their interpretations while keeping the ruling consistent with reality.
 11 The reduction in Safe Yield is a recalculation, no matter how subtle the
 12 attorneys’ arguments are.

13 2. Therefore, the court finds and orders that the first 5,000 AFY of any
 14 unproduced Ag Pool water now has a top priority over any other claims, such as
 15 conversion claims and early transfers, and that 5,000 AFY of Ag Pool water be
 16 allocated to Operating Safe Yield pursuant to Judgment Exhibit H ¶10(a).

17 a) This 5,000 AFY has top priority because it is part of the Judgment.

18 b) To further illustrate the court’s orders, based on the tables in sections
 19 IV.B.5 and V.C.5 above

| Example 1-B | Explanation | Comment |
|----------------------------|--------------|--|
| Initial Ag Pool allocation | 82,800 AFY | Judgment |
| Subtract 5,000 AFY | - 5,000 | Safe Yield recalculation reduction pursuant to Judgment Exhibit H ¶10 |
| Ag Pool production/pumping | - 33,600 AFY | Assumption based the current credited production (pumping) for agricultural groundwater is |

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| | | about 33,600 AFY, but that includes agricultural land irrigated with reclaimed water. The actual groundwater production for agricultural purposes is about 22,000 AFY. Jurupa Services District’s response to Judge Reichert’s Request for Clarification, March 22, 2016 page 2, lines 8–10.] |
| Initial balance after production and reset | 44,200 AFY | 82,800 acre-feet – 5,000 - 33,600 acre-feet = 44,200 acre-feet |
| Conversion claims | - 2000 acre-feet | Assumption: The subtraction for satisfying conversion claims before any reallocation. (1000 acres x 2.0 acre feet of water/one acre converted = 2000 acre-feet). |
| Balance: | 42,200 AFY | 44,200 acre-feet - 2000 acre-feet = 42,200 acre-feet. Ag Pool Water available after conversion priority claims pursuant to Judgment Exhibit “H” Paragraph 10 |
| Reduction for Early Transfers | - 32,800 AFY | Basic Early Transfer from 82,800 AFY allocation leaving 50,000 AFY for the Ag Pool itself to produce/pump and for additional claims by the |

| | | |
|---------|-----------|--|
| | | Appropriative Pool pursuant to Peace I and Peace II. |
| Balance | 9,400 AFY | (42,200 acre-feet -32,800 acre-feet = 14,400 acre-feet. This is the Ag Pool water available for reallocation to Appropriative Pool after subtraction of the recalculation reallocation, the conversion priority claims of 2,000 acre-feet from and the 32,800 Early Transfer of unproduced/unpumped from the allotment of Ag Pool water. |

VIII. Safe Yield Reset and Desalter-Induced Recharge

The court concludes and orders that Desalter-Induced Recharge is only to be applied to offset Desalter production. The court’s analysis involves going back to the basics of the judgment and the Peace Agreements.

A. The Revised Judgment

1. The Judgment ¶I.4.(x) defines “Safe Yield” as “the long-term average annual quantity of groundwater . . . which can be produced from the Basin under cultural conditions of a particular year without causing an undesirable result.”

2. The Judgment ¶I.4.(l) defines “Operating Safe Yield” as “the annual amount of water which Watermaster shall determine, pursuant to the criteria specified in Exhibit “I”, can be produced from Chino Basin by the Appropriative Pool parties free of replenishment obligation under the Physical Solution herein.

a) Exhibit “I” is the Engineering Appendix which has come to include the

1 definitions of Hydraulic Control, Re-Operation water, and Desalter
2 production.

- 3 3. Judgment Exhibit “H” ¶10 Unallocated Safe Yield Water states:
4 “to the extent that, in any five years, any portion of the share of
5 Safe Yield allocated to the Overlying (Agricultural) pool is not
6 produced, such water shall be available for reallocation to members of
7 the appropriative pool, as follows:

8 (a) Priorities. -Such allocation shall be made in the following sequence:

9 (1) to supplement, in the particular year, water available from
10 Operating Safe Yield to compensate for any reduction in the Safe Yield
11 by reason of recalculation thereof after the tenth year of operation
12 hereunder.

13 (2) pursuant to conversion claims as defined in Subparagraph (b)
14 hereof.

15 (3) as a supplement to Operating Safe Yield, without regard to
16 reductions in Safe Yield.

17
18 B. The 2000 Peace Agreement I

19 1. Peace I Section I(ee) defines “Operating Safe Yield” as the “annual
20 amount of groundwater which Watermaster shall determine, pursuant to criteria
21 specified in Exhibit “T” to the judgment, can be produced from Chino Basin by the
22 Appropriative Pool free of Replenishment obligation under the Physical Solution.
23 Watermaster shall include any New Yield in determining Operating Safe Yield.”

- 24 a) This is a modification of the definition of “Operating Safe Yield” from
25 the Judgment. In fact, the court notes “IV-Mutual Covenants, ¶ 4.5
26 Construction of “Operating Yield” Under the Judgment. Exhibit I to
27 the Judgment shall be construed to authorize Watermaster to include
28 New Yield as a component of Operating Safe Yield.”

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2 C. The 2007 Peace Agreement II

3 1. Article VII Yield Accounting, ¶7.1 New Yield Attributable to the
4 Desalters states “for the initial term of the Peace Agreement, neither Watermaster
5 nor the Parties will request that Safe Yield be recalculated in a manner that
6 incorporates New Yield *attributable to the Desalters* into the determination of Safe Yield
7 so that this source of supply will be available for Desalter Production rather than for
8 use by individual parties to the Judgment.” (Emphasis in original.)
9

10 D. The Safe Yield Recalculation and Desalter-Induced Recharge

11 1. Watermaster correctly states that that desalter induced recharge can
12 only be used to offset desalter production. From this Watermaster concludes that
13 Safe Yield of 135,000 acre-feet per year must include Desalter-induced recharge.
14 This conclusion is wrong.

15 a) Through many avenues, Watermaster has attempted to include
16 Desalter-Induced Recharge (with the new abbreviation of “DIR”)
17 within the definition of Safe Yield.

18 b) Watermaster has never explicitly offered an explanation of why
19 Watermaster has attempted so diligently to convince the court to
20 include Desalter-Induced Recharge within the definition of Safe Yield.

21 I) The court considers that Watermaster’s explanation might include an
22 argument that if Desalter-Induced Recharge is not included within the
23 definition of Safe Yield, the parties could produce/pump water from
24 Desalters without limit, with the result that water could be drained from
25 the Santa Ana River without limit. That result would be not only
26 detrimental to the hydrology of the entire region, but also legally
27 unjustified.

28 c) In its latest argument, Watermaster has offered to “sequester” the

1 portion of Safe Yield attributable to Desalter-Induced Recharge.

- 2 I) The court does not accept this characterization of Desalter
3 production/pumping allocation because it is simply a characterization
4 of an accounting.
- 5 II) The “sequestration” has no basis in the CAMA’s and adds a new, vague,
6 undefined term to an already complicated structure of accounting.
- 7 III) Watermaster argues “that Desalter-Induced Recharge is an inflow
8 to the Basin and therefore a component of Safe Yield.”
- 9 (a) The court rejects this argument because it contradicts the
10 requirement of Peace II that for the initial term of the Peace
11 Agreement, Safe Yield will not be recalculated to include New Yield
12 attributable to the Desalters.
- 13 (b) Desalter-Induced Recharge is the source of (and offset to) New
14 Yield attributable to the Desalters. That New Yield cannot be
15 included in Safe Yield. So, so under Peace II, Safe Yield also does
16 not include Desalter-Induced Recharge. (Peace I ¶ 1.1(aa)-definition
17 of New Yield; Peace I ¶7.5-Replenishment Water; Peace II ¶6.2-
18 Peace II Desalter Production Offsets.)
- 19 IV) The Responding AP Members argue that the court can only be
20 consistent in its orders if the court resets the Safe Yield to 115,000
21 AFY. The court also rejects this argument for the following reasons.
- 22 (a) Using Watermaster's own proposal, the court recognizes that there is
23 some logic to the position of the Responding AP Members because
24 1) if the 20,000 AFY is “sequestered” that it is not available for
25 production/pumping without a replenishment obligation and 2)
26 then the reality is the safe yield should be 135,000 AFY - 20,000
27 AFY for a net of 115,000 AFY.
- 28 (b) However, the court concludes that the structure set up by the

1 Judgment, Peace I, and Peace II require that there be separate
2 analyses for Safe Yield and New Yield attributable to the Desalters.

3 (i) The analysis for Safe Yield is illustrated in this order Sec. VII.5.a
4 above.

5 (ii) The analysis for Desalter-Induced Recharge and New Yield
6 attributable to the Desalters is described in Peace I and Peace II
7 and the further order as set forth herein.

8 (iii) Watermaster has been accounting for these analyses since 2007,
9 so it should not be a problem for Watermaster to to continue to
10 do so.

11 (c) The Responding AP Members also argues that the technical
12 reports show that the basin can safely only sustain 135,000 AFY.

13 (d) However, in Exhibit 1 to the Declaration of Mark Wildermuth -
14 2013 Chino Basin Groundwater Model Update and Recalculation of
15 Safe Yield Pursuant to Peace Agreements, section 1.2.3, “the
16 updated Watermaster Model was used to estimate Santa Ana River
17 Underflow New Yield (SARUNY) from the desalters and
18 reoperation from both the calibration and planning periods.
19 SARUNY means the same thing as that term *Desalter Induced Recharge*
20 as used in the 2015 Safe Yield Reset Agreement.” This definition is
21 repeated in section 7.3.7.

22 (e) The Wildermuth declaration filed March 10, 2017, with the Chino
23 Basin Watermaster Response to February 22, 2017 Order section
24 7.3.7 which states:

25 (i) “The net Santa Ana River recharge in the fiscal year spending
26 July 1999 through June 2000 [one year] is the baseline from
27 which to measure SARUNY, which was estimated to be
28 -2,153 acre-ft/yr, indicating that the Chino Basin discharged to

1 the Santa Ana River more water than was recharged by the River
2 into the Basin. . . . Table 7-10 compares Chino Desalter
3 production and SARUNY over the period of July 2000 through
4 July 2030. . . . The effect of 's the Chino Desalters and
5 reoperation becomes clear in 2005 when SARUNY reaches about
6 50 percent of CDA production. The New Yield results from the
7 implementation of the Chino Desalters is consistent with the
8 planning estimates that were assumed during the development of
9 the Peace Agreements."

- 10 (f) Table 7-10 shows that starting in 2017, the ratio of new yield to
11 CDA production is about an average of 45 percent, meaning that
12 New Yield Desalter-Induced Recharge those years is about 45% of
13 the Desalter production.
- 14 (g) From these facts the court concludes that the Wildermuth Safe Yield
15 reset/recalculation has taken into account the Desalter-Induced
16 Recharge and production, so there is no need to reduce the Safe
17 Yield ~~to~~ 115,000 AFY as argued by the Responding AP Members.
- 18 (h) The Peace Agreement offsets for new yield production attributable
19 to the Desalters are an accounting requirement process, not a feature
20 of determination of Safe Yield.
- 21 (i) The court also concludes that the reset/recalculation has included
22 the contractual features of the Peace Agreements, and one of those
23 features is that Safe Yield not be recalculated to incorporate New
24 Yield attributable to the Desalters. Wildermuth has considered this
25 feature.
- 26 (j) Again, therefore the safe yield of 135,000 AFY does not include
27 New Yield attributable to the Desalters.

28 2. The court still concludes for the term of Peace I (*i.e.*, until 2030), Safe

1 Yield not be recalculated in a manner that incorporates New Yield attributable to the
2 Desalters into the determination of Safe Yield.

3 a) The 20,000 AFY of Desalter-Induced Recharge is not included with the
4 definition of Safe Yield for the term of the Peace Agreements. To rule
5 otherwise would contradict the Peace Agreements.

6 b) The court analogizes its ruling to the controlled overdraft allowed to
7 achieve hydraulic control. That aspect of production/pumping was not
8 allocated to Safe Yield. The court orders that Desalter-Induced
9 Recharge New Yield remain unallocated to Safe Yield.

10 c) The court does not address the City of Chino's briefing regarding the
11 Safe Yield Implementation Replenishment Accounting Illustration (Per
12 Peace II agreement, Section 6.2 (PIIA, 6.2) and June 11, 2015 Key
13 Principles) Watermaster motion filed October 23, 2015, Exhibit "F"
14 Attachment 2 for the following reasons:

15 I) Chino asks if the Column G – Desalter-Induced Recharge
16 replenishment water was coming from Desalter production.

17 II) Footnote 4 for this Column G states that "the desalter-induced
18 recharge projection in the table is now shown at 50% of the annual total
19 desalter production for years 2015 through 2030. Desalter -induced
20 recharge from 2001 to 2014 (187,000 acre-feet) will be deemed Safe
21 Yield and not available to offset Desalter production."

22 III) As part of its order that SYRA cannot be implemented, the court
23 rejects the Safe Yield Reset Implementation Desalter Replenishment
24 Accounting Illustration.

25 IV) The City of Ontario has argued that Desalter Induced Recharge
26 to offset Desalter production should be "backfilled" from Safe Yield.
27 The court rejects this argument for the following reasons:

28 (a) This is merely a characterization of what SYRA proposed to do, and,

1 for the reasons already stated, the court has rejected SYRA except
2 for the Safe Yield recalculation.

3 (b) The Judgment, the Peace Agreements, and the CAMA's do not
4 support this accounting, again for the reasons already stated.

5 (c) Again, for the reasons stated herein, the court rejects that Ontario's
6 argument that a Safe Yield recalculation to 135,000 AFY is not a
7 "Safe Yield recalculation." The argument has no merit and is
8 completely unpersuasive.

9 (d) The court finds that the definitions of Safe Yield and New Yield are
10 sufficiently set forth in the Judgment, Peace I and Peace II.

11 (i) Watermaster does not point to any specific conflict between the
12 court's current/instant order and the court's order implementing
13 Watermaster Resolution 07-05, and the court finds none.

14 (ii) The court reaffirms the definitions of Peace II which have been
15 in effect for 10 years, and of course the definitions of the
16 Judgement and Peace I.

17 (iii) The court finds no basis for Watermaster's attempt to define
18 Desalter-Induced Recharge into directly, indirectly, Safe Yield or
19 by a "sequester."

20 (iv) In reaffirming the definitions of the Judgment, Peace I, and
21 Peace II, the court of course also notes the definition of "Safe
22 Yield" in the Judgment ¶I.1(x) inclusive of "undesirable result,"
23 and the "Material Physical Injury" of Peace I ¶I.1 (y).

24 V) The court finds and orders that Desalter production is not Safe Yield
25 and Desalter production is to be offset only as provided in Peace II.
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28 **IX. Additional Bases for Rulings**

1 A. The court has refused to implement the sections of SYRA identified above for
2 the reasons set forth above. In the court's view, those reasons are sufficient under
3 the law. Therefore, the court has not addressed other objections raised by the
4 parties, such as those of the City of Chino, that Watermaster has failed to prove a
5 change in circumstances, that Watermaster has improperly advocated for certain
6 parties, that the parties are collaterally estopped from re-litigating the parties' rights,
7 that the parties are equitably estopped from reducing their replenishment obligations,
8 that SYRA fails to comply with CEQA, that SYRA provisions resulted in an unlawful
9 taking of Chino's property.

10
11 B. Although the court understands the necessity of accounting for Desalter
12 induced recharge from the Santa Ana River, the court does not find a basis in the
13 law, the Judgment, or the Court Approved Management Agreements for
14 simultaneously reducing Safe Yield and adding unproduced/unpumped Ag Pool
15 water to account for Desalter induced recharge.

16 1. Watermaster argues that the court should approve SYRA because it is
17 only a confirmation of "interpretation of the manner in which Watermaster should
18 comply with the provisions of the Court Approved Management Agreements.
19 (Watermaster's Reply to Oppositions to Motion regarding 2015 Safe Yield Reset
20 Agreement, Amendment of Restated Judgment, Paragraph 6, page 10, line 26.)

21 a) The court does not accept this argument. The court interprets SYRA as
22 an attempt for a major qualitative revision of the Court Approved
23 Management Agreements, but the Court Approved Management
24 Agreements do not support the SYRA revision for the reasons stated
25 herein.


26 2. The court finds that the rulings herein will not cause material physical
27 injury or an undesirable result.

28 a) Although many parties have approved SYRA, parties' approval or

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disapproval of SYRA is not a legal basis for the court to enforce SYRA.
The court must look to the previous agreements of the parties, the
previous court orders, the Court Approved Management Agreements,
the Judgement, and the California Constitution.

Date: 4-28-17



Judge Stanford E. Reichert
San Bernardino County Superior Court

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

APR 28 2017

BY *Tiffany Kretzmeier*
TIFFANY KRETZMEIER, DEPUTY

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

CHINO BASIN MUNICIPAL WATER DISTRICT,

Plaintiff,

vs.

CITY OF CHINO, et al.,
Defendants

CASE NOS. RCV 51010

CIVDS 1518945

) Additional/Final Further Revised

) Proposed Order Re SYRA and

) Additional/Final Rulings and Order for

) Oral Argument

) Date: April 28, 2017

) Time: 1:30 PM

) Department: S35

CITY OF CHINO,

Plaintiff,

vs.

Cucamonga Water District, et al.
Defendants

PLEASE TAKE NOTICE that the additional/final further revised proposed order for the SYRA reset motion in case RCV 51010 is attached. A hearing is set for the additional/further revised proposed order for April 28, 2017, 1:30 PM, Dept. S35

1 of the above-entitled court.

2 NOTES RE FURTHER REVISED PROPOSED ORDER

3 A. Attached are two versions of the additional further revised proposed order.

4 1. One version, for the convenience of the parties, has parts of the order
5 which the court has added in the following **font**. From the previous proposed order,
6 filed April 18, 2017, the court has ~~stricken~~ anything that relates to limiting production
7 /pumping of the Desalters. Court has not made any other substantive changes in the
8 additional/further revised proposed orders from those orders filed April 18, 2017.

9 a) The court has received and considered the request by Chino Basin Desalter
10 Authority Member Agencies regarding desalter pumping.

11 b) The court concludes that the court should not have made any orders
12 whatsoever with respect to limiting production/pumping of the desalters in
13 its previous orders for the following reasons:

14 I) Such orders were outside of the scope of any briefing regarding SYRA
15 and the motions, requests, and disputes concerning SYRA.

16 II) Any limitation on Desalter production/pumping would require
17 additional briefing and unreasonably postpone the resolution of SYRA
18 motion, requests, and disputes.

19 III) In further review of the court's tentative rulings, the court further
20 concludes that there were no legal or factual reasons set forth in the
21 briefing for the court to make such an order.

22 (a) Therefore, from the previous proposed rulings, the parties are not to
23 derive any conclusions on how the court might rule with respect to a
24 request to limit Desalter production/pumping. This was only
25 tentative ruling without sufficient briefing by the parties and
26 sufficient analysis by the court. In the court's current view, it is
27 erroneous.

28 (b) Specifically, to help the parties, the court has ordered stricken from

1 the additional safe yield reset agreement motion and additional
2 further revised proposed rulings and orders, the court has stricken:

3 (i) page 2 of 84: lines 5-6,

4 (ii) page 75 of 84: line 7-8, and

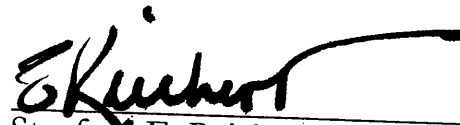
5 (iii) page 77 of 84: lines 8-10.

6 (a) The court has also deleted these lines from the additional safe yield
7 reset agreement motion additional final rulings and order

8 2. The other version of the additional/further revised proposed order has
9 all the changes incorporated into a final, "clean" proposed order as of 4/28/17.

10 B. Therefore the court's conclusion is the only remaining issue for oral argument
11 is whether the Safe Yield reset to 135,000 AFY is an event that requires a
12 recalculation within the definition of the Judgment, Exhibit "H" ¶10 for the reasons
13 set forth in the additional/further revised proposed order.

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15 Dated: 4-28-17

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19 Stanford E. Reichert, Judge

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

10 CHINO BASIN MUNICIPAL WATER)
11 DISTRICT,)

12 Plaintiff,

13 vs.

14 CITY OF CHINO, et al.,

15 Defendants
16
17

Case No. RCV 51010

[Additional/Further Revised Proposed]

ORDERS for Watermaster's Motion
Regarding 2015 Safe Yield Reset
Agreement, Amendment of Restated
Judgement, Paragraph 6

Date: April 28, 2017
Time: 1:30 PM
Department: S35

18 Watermaster's Motion Regarding 2015 Safe Yield Reset Agreement,
19 Amendment of Restated Judgment, Paragraph 6, joined by The Chino Basin
20 Overlying (Agricultural) Pool Committee and The Inland Empire Utilities Agency
21 ("IEUA") and opposed by Jurupa Community Services District ("JCSD") and the
22 City of Chino ("Chino") is granted in part and denied in part for the reasons set forth
23 herein. The court grants the motion with respect to amending the restated judgment
24 to reset the Safe Yield of the basin to 135,000 AFY.

25 However, the court denies **all other parts of SYRA** including the motions
26 to amend the schedule for access to Re-Operation Water ~~and. The court denies~~ the
27 motion to institute Safe Storage Management Measures. The court makes additional
28 orders **regarding priorities and** ~~with respect to access for Re-Operation Desalter~~

1 water as set forth herein.

2 **Additionally, the court orders that the Safe Yield reset to 135,000 AFY is**
3 **an event that requires a “recalculation” with the definition of the Judgment,**
4 **Exhibit “H” ¶10.**

5 ~~Additionally, the order orders that production/pumping of the Desalters is~~
6 ~~limited to 20,000 AFY.~~

8 **REQUEST FOR JUDICIAL NOTICE**

9 The court grants requests for judicial notice of JCSD as follows:

- 10 1. Restated Judgment (“Judgment”) in case number RCV 51010.
- 11 2. Implementation Plan Optimum Basin Management Program for the Chino Basin
12 (“OBMP Implementation Plan”).
- 13 3. Chino Basin Watermaster Rules and Regulations (“Rules and Regulations”).
- 14 4. 2015 Safe Yield Reset Agreement (“SYRA”).
- 15 5. Order Concerning Motion for Approval of Peace II Documents (“2007 Order”)
16 in case number RCV 51010.
- 17 6. 2000 Peace Agreement Chino Basin (“Peace I Agreement” or “Peace I”).
- 18 7. Watermaster Compliance with Condition Subsequent Number Eight: Proposed
19 Order Submitted Concurrently.
- 20 8. Peace II Agreement: party support for Watermaster’s OBMP Implementation
21 Plan, Settlement and Release of Claims Regarding Future Desalters (“Peace II
22 Agreement” or “Peace II”).

24 **JOINDERS AND FILINGS**

25 A. Watermaster's motion regarding 2015 Safe Yield Reset Agreement,
26 amendment of restated Judgement, Paragraph 6.

27 1. City of Chino’s objections to declaration of Kavounas submitted with
28 Watermaster’s Motion regarding 2015 Safe Yield Reset Agreement, Amendment of

1 Restated Judgment, Paragraph 6

2 Rulings in separate document.

3 2. City of Chino's objections to declaration of Wildermuth submitted with
4 Watermaster's Motion regarding 2015 Safe Yield Reset Agreement, Amendment of
5 Restated Judgment, Paragraph 6

6 Rulings in separate document.

7 B. The following parties joined in Watermaster's motion:

- 8 1. Overlying (Agricultural) Pool
- 9 2. Inland Empire Utilities Agency

10 C. Oppositions to Watermaster's motion

- 11 1. City of Chino with supporting documents
 - 12 a) Declaration of Robert Shibatani, physical hydrologist
 - 13 b) Declaration of David Crosley, civil engineer, water and environmental
14 manager for City of Chino
- 15 2. Jurupa Community Services District (JCSD) with supporting documents
 - 16 a) Request for judicial notice identified above
 - 17 b) Declaration of Todd Corbin, general manager of JCSD
 - 18 c) Declaration of Robert Donlan, attorney

19 D. Watermaster's reply to oppositions to motion regarding 2015 Safe Yield Reset
20 Agreement, amendment of Restate Judgement, Paragraph 6

- 21 1. Supplemental declaration of Kavounas
 - 22 a) City of Chino's objections Kavounas supplemental declaration in
23 support of Watermaster's reply the Chino opposition
 - 24 b) Watermaster's Response to City of Chino's objections to supplemental
25 declaration of Peter Kavounas in support of Watermaster's reply to
26 Chino's Opposition to Motion regarding 2015 Safe Yield Reset
27 Agreement, Amendment of Restated Judgment, Paragraph 6

28 I) Motion to strike denied. The court finds that the declaration did not

1 raise new issues.

2 II) All objections overruled.

3 2. Supplemental declaration of Wildermuth

4 a) City of Chino's objections to Wildermuth supplemental declaration in
5 support of Watermaster's reply to Chino opposition.

6 b) Watermaster's Response to City of Chino's objections to supplemental
7 declaration of Mark Wildermuth in support of Watermaster's reply to
8 Chino's Opposition to Motion regarding 2015 Safe Yield Reset
9 Agreement, Amendment of Restated Judgment, Paragraph 6.

10 I) Motion to strike denied. The court finds that the declaration did not
11 raise new issues.

12 II) All objections overruled.

13 3. Declaration of Danielle Maurizio, assistant general manager of Chino

14 Basin

15 a) City of Chino's objections to supplemental declaration of Danielle D.
16 Maurizio in support of Watermaster's reply to chino opposition

17 b) Watermaster's Response to City of Chino's objections to supplemental
18 declaration of Danielle E. Maurizio in support of Watermaster's reply to
19 Chino's Opposition to Motion regarding 2015 Safe Yield Reset
20 Agreement, Amendment of Restated Judgment, Paragraph 6

21 I) Motion to strike denied. The court finds that the declaration did not
22 raise new issues.

23 II) All objections overruled.

24 4. Joinders in Watermaster's reply to oppositions

25 a) Overlying (Agricultural) Pool

26 b) City of Pomona and (in one pleading document)

27 I) City of Upland

28 II) Monte Vista Water District

1 III) Cucamonga Valley Water District

2 IV) Fontana Union Water Company

3 E. In an order Dated March 22, 2016, the court served the parties with questions
4 and a request for further briefing in response to the questions. The responses were
5 as follows:

6 1. Jurupa Community Services District response to Judge Reichert's
7 request for clarification filed April 1, 2016.

8 2. City of Chino's responses to Judge Reichert's questions, filed April 1,
9 2016.

10 3. Watermaster's response to order for additional briefing filed April 1,
11 2016.

12 a) Chino's reply to Watermaster's response to order for additional briefing,
13 filed April 11, 2016.

14 b) Jurupa Community Services District's additional response to Judge
15 Reichert's request for clarification, filed April 11, 2016

16 4. Watermaster's further response to order for additional briefing, filed
17 April 11, 2016

18 **F. At the hearing on February 22, 2017, the court ordered that the parties**
19 **may file questions regarding the court's tentative draft order, and the court set a**
20 **briefing schedule. In response, the court received the following:**

21 1. **Filed March 10, 2017-Chino Basin Watermaster response to**
22 **February 22, 2017 order**

23 2. **Filed March 10, 2017-City of Chino's response to issue in section II**
24 **of Judge Reichert's revised proposed order re SYRA**

25 3. **Filed March 10, 2017-Responding AP members (Monte Vista Water**
26 **District, Cucamonga Valley Water District, City of Pomona, and City of Upland)**
27 **filed March 10, 2017**

28 4. **Filed March 24, 2017-Chino Basin Watermaster further response to**

1 **February 22, 2017 order**

2 **5. Filed March 24, 2017-City of Chino's response to court authorized**
3 **further briefing re revised tentative order re Watermaster's motion re 2015 Safe**
4 **Yield reset Agreement**

5 **6. Filed March 24, 2017-City of Chino's response to Chino Basin**
6 **Watermaster's response to February 22, 2017 order**

7 **7. Filed March 24, 2017-City of Ontario's response regarding issue for**
8 **further briefing**

9 **8. Filed March 24, 2017-Jurupa Community Services District**
10 **opposition to Monte Vista Water District's response to court's February 22, 2017**
11 **order re SYRA and response to questions [joins in the opposition filed by the City**
12 **of Ontario]**

13 **9. Filed March 24, 2017-Responding AP members response to both**
14 **Watermaster and City of Chino's further briefing re revised tentative order re**
15 **Watermaster's motion re 2015 Safe Yield Reset Agreement**

16 **10. Filed April 4, 2017-errata to City of Chino's response to Chino Basin**
17 **Watermaster's response to February 22, 2017 order**

18 **11. Filed April 7, 2017-Chino Basin Watermaster further response to**
19 **February 22, 2017 order**

20 **12. Filed April 7, 2017-City of Chino's reply to responses of**
21 **Watermaster, 4AP Members, Ontario and Jurupa**

22 **13. Filed April 7, 2017-Jurupa Community Services District's limited**
23 **reply to City of Chino's response to Chino Basin Watermaster's response**
24 **to February 22, 2017 order, dated March 24, 2017**

25 **14. Filed April 7, 2017-Responding AP Members reply to opposition**
26 **briefs re revised tentative order re Watermaster's motion re 2015 Safe Yield**
27 **Reset Agreement**

28 **15. Filed April 17, Request by Chino Basin Desalter Authority Member**

1 Agencies regarding Desalter Pumping.

2 **SEPTEMBER 23, 2016, HEARING AND ADDITIONAL BRIEFING**

3 After extensive briefing and consideration, on September 23, 2016,
4 the court held a hearing on the 2015 SYRA and related motions. Before
5 the hearing, the court had issued an lengthy (over 60 pages) proposed
6 order. At the hearing on September 23, there was extensive oral
7 argument, and the court concluded that some aspects of the court's
8 proposed order were confusing or erroneous. Therefore, the ordered that
9 there be even further briefing, and the court ordered additional briefing
10 through questions by the parties about the proposed order. In its order
11 entitled "Revised Proposed Order Re SYRA in Response to Questions:
12 Issues for Further Briefing," and the current order, the court addressed
13 the parties' questions.

14
15
16 **I. INTRODUCTION, DEFINITIONS, BACKGROUND**

17 A. The 1978 judgment in *Chino Basin Municipal Water District v. City of Chino* (San
18 Bernardino Superior Court Case No. 51010) set the Safe Yield of the Chino Basin at
19 140,000 acre-feet per year (AFY), but reserved continuing jurisdiction to the court to
20 amend the Judgment, inter alia, to redetermine the Safe Yield after the first 10 years
21 of operation of the Physical Solution established under the Judgment. The Physical
22 Solution identified three groups of parties (Pools) with water interests in the Chino
23 Basin, and set forth their allocations as follows:

| Pool | Allocation | Acre-feet Yearly Allocation |
|--------------------------------------|---|-----------------------------|
| Overlying (Agricultural) Pool* | 414,000 acre-feet in any five (5) consecutive years [note: 414,000 ÷ 5 = 82,800 per | 82,800 |

| | | |
|---|-------------------------|---------|
| | year] | |
| Overlying (Non-agricultural) Pool** | 7,366 acre-feet | 7,366 |
| Appropriative Pool*** | 49,834 acre-feet | 49,834 |
| | Yearly total allocation | 140,000 |

*The members of this pool included dairy farms.

**The members of this pool include businesses which use water in their production processes.

***The members of this pool include cities and water companies. They “appropriate” the water by pumping and selling it.

Over the course of the Court-Approved Management Agreements (set forth in the next section), the court allowed up to 600,000 AF of water to be produced/pumped out of the Chino Basin without any replenishment obligation. “While the parties are not limited in the quantities of water they may produce, the Judgment requires that beyond the permitted Controlled Overdraft comprising an initial 200,000 AF and an additional 400,000 AF of Re-operation water (Restated Judgment, Exhibit “I”, ¶¶ 2.(b), 3.(a)), there must be a bucket for bucket replenishment [and associated cost to the producer/pumper] to offset production in excess of the Basin’s Safe Yield. (Restated Judgment, ¶¶ 13, 42).” (Watermaster’s Response to Questions for Clarification in Final Orders for Watermaster’s Motion Regarding 2015 Safe Yield Reset Agreement, Amendment of Restated Judgment, Paragraph 6, page 2, line 23 to page 3, line 4, filed October 28, 2016.)

The court notes that this total “controlled overdraft” *i.e.*, pumping without replenishment cost, (aka “Re-Operation Water”) of 600,000 AF

1 has just about been exhausted.

2 This motion is the first time the court has redetermined the Safe Yield since
3 the Judgment was entered in 1978.

4
5 B. Since the entry of the judgment, the court has previously approved agreements to
6 implement the Physical Solution (“Court Approved Management Agreements” aka
7 “CAMA”). There is no dispute that the court has the authority and duty to
8 independently review the evidence de novo and determine whether proposals by
9 Watermaster or any party comply with the Judgment and the Court Approved
10 Management Agreements. (Restated Judgment ¶31(d).) The Court Approved
11 Management Agreements are:

12 1. The Chino Basin Peace Agreement (Peace I Agreement), dated June 29,
13 2000, as subsequently amended in September 2004 and December 2007.

14 a. In 2000 the parties executed Peace Agreement Chino Basin (Peace I
15 Agreement) and agreed to Watermaster’s adoption of the Optimum
16 Basin Management Plan (OBMP) Implementation Plan. At about the
17 same time, the court ordered Watermaster to proceed in a manner
18 consistent with Peace I and the OBMP, including Program Element 8
19 (Develop and Implement Groundwater Storage Management Program)
20 and Program Element 9 (Develop and Implement Storage and
21 Recovery Programs). The implementation plan acknowledged the need
22 to obtain better production data through the metering of non-exempt
23 production within the Basin. Program Elements 8 and 9 provided for
24 Watermaster to redetermine and reset the Basin’s Safe Yield in the year
25 2010/11. The basis of the redetermination and reset would be
26 production data derived from the collection of additional data regarding
27 the parties’ production (*i.e.*, parties who pumped water out of the Basin)
28 within the basin during the 10-year period 2000/01 through 2009/10.

1 The study for redetermination and reset was not completed
2 until 2015, and the motion regarding determination and reset
3 was not filed until October 2015.

4 b. The Peace I Agreement introduced the installation of Desalters in the
5 southwest portion of the Basin. The Desalters pump ground water
6 from the aquifer and supply that water to water companies and other
7 users. By pumping water out of the aquifer, the Desalters also lowered
8 the ground water table to help obtain Hydrologic Control, *i.e.*,
9 preventing Chino Basin ground water from reaching the Santa Ana
10 River south of the Basin. The Santa Ana River is a major source of
11 water for Orange County, and water impurities and contaminants, some
12 of which came from the Chino Basin dairy farms (“salts”) were in the
13 groundwater flowing from the Basin into the Santa Ana River. The
14 Desalter capacity has now expanded to ~~20~~ **40 MGD (40 million**
15 **gallons per day)** as provided in the OBMP Implementation Plan to
16 protect against a decline in Safe Yield and for water quality benefits, but
17 the court reserved the question of how “Future Desalter” capacity
18 would be addressed. The Chino Basin Desalter Authority (CDA),
19 which includes the City of Chino, participated in the construction of the
20 Desalters which represented a substantial engineering and financial
21 undertaking. These Desalters were completed and fully operational in
22 2006.

23 2. The Peace II Measures (court approved on December 21, 2007).

24 a. In 2007, the parties entered into the Peace II Agreement. The objective
25 was to increase the Desalter capacity to 40 MGD to achieve the OBMP
26 Implementation Plan objectives. In order to do this, the parties
27 designed and financed an additional 10 million gallons per day (~~MGD~~)
28 of expanded Desalter capacity. The expansion of the Desalters to the

1 full plant capacity will be completed in 2017. With the completion of
2 this construction, Hydraulic Control will be achieved. Hydraulic
3 Control now means only a de minimus amount of groundwater will
4 flow from the Chino Basin south into the Santa Ana River. In fact, the
5 Desalters now have lowered the water table in the south end of the
6 Basin so that ground water is now flowing from the Santa Ana River
7 north into the Chino Basin. ~~This is called Re-Operation water.~~

8 3. The Optimum Basin Management Plan (OBMP) Implementation Plan
9 dated June 29, 2000, was supplemented in December 2007.

10 4. The Recharge Master Plan, dated 1998, was updated in 2010 and
11 amended in 2013.

12 5. The Watermaster Rules and Regulations dated June 2000, as amended.

13 6. The October 8, 2010 Order Approving Watermaster's Compliance with
14 Condition Subsequent Number Eight and Approving Procedures to be used to
15 Allocate Surplus Agricultural Pool Water in the Event of a Decline in Safe Yield.

16 7. Watermaster Resolution 2010-04 ("Resolution of the Chino Basin
17 Watermaster regarding Implementation of the Peace II Agreement and the Phase III
18 Desalter Expansion in Accordance with the December 21, 2007 Order of the San
19 Bernardino Superior Court").

20
21 C. Additional background for motion

22 1. At the September 24, 2015 Watermaster Board Meeting, the board
23 adopted Resolution 2015-06: Resolution of the Chino Basin Watermaster regarding
24 the 2015 Safe Yield Reset Agreement (SYRA).

25 2. Through a Facilitation and Non-Disclosure Agreement (FANDA),
26 Watermaster attempted to obtain agreement as to all issues regarding Safe Yield
27 redetermination and reset allocation. Those issues included not only a reset of the
28 Safe Yield from 140,000 acre-feet per year to 135,000 acre-feet per year, but also

1 Watermaster's accounting for reallocations related to Court Approved Management
2 Agreements, and a method of allocations for water storage called the Safe Storage
3 Management Agreements.

- 4 a) The FANDA process took place starting in November 2014, and
5 through at least 30 meetings, by May 27, 2015, all but one of the then-
6 active parties to the FANDA reached a non-binding agreement among
7 their negotiating representatives on certain key principles (apparently
8 also called the "term sheet") embodied in the Safe Yield Summary of
9 Non-Binding Key Principles Derived from the Facilitated Process.
- 10 b) The parties continued to negotiate, with a goal of reducing the Key
11 Principles into a binding instrument for execution by September 1,
12 2015. That agreement is identified as the 2015 Safe Yield Reset
13 Agreement (SYRA). The Appropriative Pool, the Overlying
14 (Agricultural) Pool, and the Three Valleys Municipal Water District
15 approved the 22-page agreement, as did many other parties. The City
16 of Chino refused to sign the agreement.
- 17 c) On September 24, 2015, the board at its regular meeting adopted
18 resolution 2015-06, and previously – on September 17, 2015 – the
19 advisory committee approved resolution 2015-06: "Resolution of Chino
20 Basin Watermaster regarding 2015 Safe Yield Reset Agreement
21 (SYRA)."
- 22 d) Watermaster's instant motion asks the court to address the issues
23 covered in the SYRA as follows:
- 24 I) The reset of the Basin Safe Yield from 140,000 acre-fee per year (AFY)
25 to 135,000 AFY pursuant to the Restated Judgment, the OBMP
26 Implementation Plan, and Watermaster's Rules and Regulations;
27 II) The manner in which Watermaster should account for various
28 components of the recharge to the Basin implementing the Court-

1 Approved Management Agreements; and

2 III) Establishment of Safe Storage Management Measures (SSMM)
3 intended to ensure that withdrawals of groundwater from authorized
4 storage accounts within the Basin are safe, sustainable, and will not
5 cause Material Physical Injury or undesirable results.
6

7 D. SUMMARY RULINGS:

8 In its motion, Watermaster requests an order acknowledging the 2015 Safe
9 Yield Reset Agreement and ordering Watermaster to proceed in accordance with its
10 terms with respect to amending the restated judgment to reset the Safe Yield of the
11 Basin from 135,000 AFY to 135,000 AFY and amending the schedule for access to
12 Re-Operation water (~~water pumped by the Desalters~~). For the reasons set forth
13 herein, the court grants the motion with respect to amending the restated judgment
14 to reset the Safe Yield of the basin to 135,000 AFY. However, the court denies **the**
15 **rest of the motions including** the motions to amend the schedule for access to
16 Re-operation water ~~pumped by the Desalters~~ (“~~Desalter water~~”) and ~~the court~~
17 ~~denies~~ **and** the motion to institute Safe Storage Management Measures. The court
18 makes additional orders with respect to Desalter water as set forth herein.
19

20 **II. Severability of SYRA**

21 Watermaster has questioned whether the court can sever SYRA and
22 enforce certain sections and not others. For the following reasons, except
23 for the Safe Yield reset itself, the court has concluded that it cannot
24 enforce some of sections and not others:

25 A. Watermaster itself has argued that SYRA is an integrated document
26 which cannot be divided.

27 1. Watermaster’s “Response to Questions for Clarification, etc.”
28 filed October 28, 2016, states: “the SYRA is the product of the Facilitation

1 and Non-Disclosure Agreement (FANDA) process, during which the parties
2 to that agreement comprehensively settled and compromised their
3 disagreements, so as to enable Watermaster to implement the CAMA's
4 through and following the reset of Safe Yield."

5 a) The court does not find a basis for this characterization. *Most*
6 of the parties settled and compromised their disagreements,
7 but not all, notably the city of Chino and Jurupa Community
8 Services District.

9 2. Watermaster further argues that approving "some, but not all,
10 of SYRA's provisions can materially advantage one party over another, in
11 that the full benefit of the parties intended settlement and compromise is
12 not achieved, as one or more parties may be denied the consideration for
13 which it bargained."

14 a) For the reasons set forth below, the court refuses to adopt
15 SYRA in whole. Following Watermaster's own all-or-nothing
16 argument, the court must conclude that not only is there no
17 legal basis to enforce part of SYRA, but also that it is
18 fundamentally unfair to the parties to enforce portions of SYRA
19 for which the parties did not bargain.

20 3. However, the court concludes there is a qualitative difference
21 between the safe yield reset and the balance of SYRA.

22 a) The request to reduce the Safe Yield to 135,000 AFY is a legal
23 determination for the court.

24 b) The request to reduce Safe Yield is based on the Reset
25 Technical Memorandum report and model. That memorandum
26 has nothing to do with interactions, bargaining, or allocations
27 among the parties.

28 I) There ample technical and scientific support for the reset in

1 the Technical Memorandum and the 2013 Chino Basin
2 Groundwater Model Update and Recalculation of Safe Yield
3 Pursuant to the Peace Agreement prepared by Wildermuth
4 Environmental, Inc. dated October 2015.

5 c) The request to reduce Safe Yield is in response to the court
6 order itself to evaluate the yield every 10 years

7 I) Although the study should have been done in 2010, at least
8 it was completed in 2015.

9 II) None of the other aspects of SYRA were pursuant to a court
10 order.

11 III) The safe yield reset is a legal determination for the
12 court. There is no "bargained-for exchange" for the court
13 to consider.

14 d) Therefore for these reasons and those set forth in section III
15 below ~~III~~ the court adopts the following provisions of Article 4-
16 SAFE YIELD RESET TO 135,000 AFY of the SYRA AND ORDERS
17 AS FOLLOWS:

18 4.1 Safe Yield Reset. Consistent with the prior orders of the Court pursuant to its
19 continuing jurisdiction, effective July 1, 2010 and continuing until June 30, 2020, the
20 Safe Yield for the Basin is reset at 135,000 AFY. For all purposes arising under the
21 Judgment, the Peace Agreements and the OBMP Implementation Plan, the Safe
22 Yield shall be 135,000 AFY, without exception, unless and until Safe Yield is reset in
23 accordance with the procedures set forth in this order, and determined by the Court
24 pursuant to its retained continuing jurisdiction.

25
26 4.2 Scheduled Reset. Watermaster will initiate a process to evaluate and reset the
27 Safe Yield by July 1, 2020 as further provided in this order. Subject to the provisions
28 of Paragraph 4.3 below, the Safe Yield, as it is reset effective July 1, 2020 will

1 continue until June 30, 2030. Watermaster will initiate the reset process no later than
2 January 1, 2019, in order to ensure that the Safe Yield, as reset, may be approved by
3 the court no later than June 30, 2020. Consistent with the provisions of the OBMP
4 Implementation Plan, thereafter Watermaster will conduct a Safe Yield evaluation
5 and reset process no less frequently than every ten years. This Paragraph is deemed
6 to satisfy Watermaster's obligation, under Paragraph 3.(b) of Exhibit "I" to the
7 Restated Judgment, to provide notice of a potential change in Operating Safe Yield.
8

9 4.3 Interim Correction. In addition to the scheduled reset set forth in Paragraph
10 4.2 above, the Safe Yield may be reset in the event that, with the recommendation
11 and advice of the Pools and Advisory Committee and in the exercise of prudent
12 management discretion described in Paragraph 4.5(c), below, Watermaster
13 recommends to the court that the Safe Yield must be changed by an amount greater
14 (more or less) than 2.5% of the then-effective Safe Yield.
15

16 4.4 Safe Yield Reset Methodology. The Safe Yield has been reset effective July 1,
17 2010 and shall be subsequently evaluated pursuant to the methodology set forth in
18 the Reset Technical Memorandum. The reset will rely upon long-term hydrology and
19 will include data from 1921 to the date of the reset evaluation. The long-term
20 hydrology will be continuously expanded to account for new data from each year,
21 through July 2030, as it becomes available. This methodology will thereby account
22 for short-term climatic variations, wet and dry. Based on the best information
23 practicably available to Watermaster, the Reset Technical Memorandum sets forth a
24 prudent and reasonable professional methodology to evaluate the then prevailing
25 Safe Yield in a manner consistent with the Judgment, the Peace Agreements, and the
26 OBMP Implementation Plan. In furtherance of the goal of maximizing the
27 beneficial use of the waters of the Chino Basin, Watermaster, with the
28 recommendation and advice of the Pools and Advisory Committee, may supplement

1 the Reset Technical Memorandum's methodology to incorporate future advances in
2 best management practices and hydrologic science as they evolve over the term of
3 this order.

4
5 4.5 Annual Data Collection and Evaluation. In support of its obligations to
6 undertake the reset in accordance with the Reset Technical Memorandum and this
7 order, Watermaster shall annually undertake the following actions:

8 (a) Ensure that, unless a Party to the Judgment is excluded from reporting,
9 all production by all Parties to the Judgment is metered, reported, and reflected in
10 Watermaster's approved Assessment Packages;

11 (b) Collect data concerning cultural conditions annually with cultural
12 conditions including, but not limited to, land use, water use practices, production,
13 and facilities for the production, generation, storage, recharge, treatment, or
14 transmission of water;

15 (c) Evaluate the potential need for prudent management discretion to avoid
16 or mitigate undesirable results including, but not limited to, subsidence, water quality
17 degradation, and unreasonable pump lifts. Where the evaluation of available data
18 suggests that there has been or will be a material change from existing and projected
19 conditions or threatened undesirable results, then a more significant evaluation,
20 including modeling, as described in the Reset Technical Memorandum, will be
21 undertaken; and,

22 (d) As part of its regular budgeting process, develop a budget for the
23 annual data collection, data evaluation, and any scheduled modeling efforts, including
24 the methodology for the allocation of expenses among the Parties to the Judgment.
25 Such budget development shall be consistent with section 5.4(a) of the Peace
26 Agreement.

27
28 4.6 Modeling. Watermaster shall cause the Basin Model to be updated and a

1 model evaluation of Safe Yield, in a manner consistent with the Reset Technical
2 Memorandum, to be initiated no later than January 1, 2024, in order to ensure that
3 the same may be completed by June 30, 2025.

4
5 4.7 Peer Review. The Pools shall be provided with reasonable opportunity, no
6 less frequently than annually, for peer review of the collection of data and the
7 application of the data collected in regard to the activities described in Paragraphs
8 4.4, 4.5, and 4.6 above.

9
10 4.8 No Retroactive Accounting. Notwithstanding that the initial Safe Yield reset,
11 described in Paragraph 4.1 above, shall be effective as of July 1, 2010, Watermaster
12 will not, in any manner, including through the approval of its Assessment Packages,
13 seek to change prior accounting of the prior allocation of Safe Yield and Operating
14 Safe Yield among the Parties to the Judgment for production years prior to July 1,
15 2014.

16
17 **III. IV. THE COURT FURTHER ORDERS AS FOLLOWS:**

18 A. The court amends the restated judgment ¶6 and sets the safe yield to 135,000
19 AFY for the following reasons:

20 1. The court accepts the findings and conclusions of Wildermuth for the
21 following reasons. Those conclusions are set forth in the reset Technical
22 Memorandum.

- 23 a) Wildermuth has been the authoritative resource for the parties and the
24 court during the pendency of the case for the last 15 years.
- 25 b) Wildermuth has performed a detailed analysis with substantiated facts
26 and findings in the reset technical memorandum, the supplemental
27 declaration of Mark Wildermuth in support of Watermaster's reply to
28 oppositions to the motion regarding 2015 Safe Yield Reset Agreement,

1 and the memo to restated judgment, paragraph 6 aka Wildermuth
2 supplemental declaration.

3 c) The court accepts the net recharge approach and calculations set forth
4 in the Wildermuth report.

5 d) The Wildermuth report gives the most comprehensive analysis and
6 credible evaluation of the historic condition of the Basin.

7 e) The court does not accept the conclusions of Robert Shibatani for the
8 following reasons:

9 I) Shibatani recognizes that the net recharge calculation is a legitimate
10 approach to a determination of Safe Yield.

11 II) The Shibatani approach is unnecessarily quantitative. The Wildermuth
12 analysis allows for the definitions required for the analysis of the Chino
13 Basin, including cultural conditions and undesirable results.

14 III) Wildermuth has considered the effects of climate change of
15 Basin precipitation. The court accepts Wildermuth's conclusion that
16 there are not any better predictive modeling scenarios generally available
17 at this time accurately calibrated to the historical rainfall and are
18 therefore not reliable as a predictive tool.

19 2. The Restated Judgment's definition of Safe Yield includes the
20 consideration of the evolutionary land-use conditions the need to protect the Basin
21 against undesirable results.

22 3. No party has objected to the reduction in Safe Yield, except the city of
23 Chino. Chino's objections were discussed and rejected/overruled for the reasons set
24 forth in Joinders and Filings, Section A.2 above.

25 4. The reduction safe yield is consistent with the Court-Approved
26 Management Agreements.

27 5. The court finds that the provisions of SYRA set for in Section II
28 above set forth an approach to a determination of future Safe Yield determinations

1 in a manner consistent with the Court Approved Management Agreements.

- 2 a) The declaration of Peter Wildermuth and the supporting
3 documentation, analysis supports the court's conclusion.
- 4 b) Wildermuth declaration, paragraph 14, states his opinion that the Basin
5 protection measures to which the parties have agreed and the 2015 Safe
6 Yield Reset Agreement will ensure that the Basin is not harmed by
7 extraction of 135,000 AFY through fiscal 2020. However, again the
8 court emphasizes that its ruling is not based on the agreement
9 of the parties. The court's ruling is based upon the Restated
10 Judgment, the Court Approved Management Agreements, and
11 its legal conclusions supported by the technical analyses
12 identified in the court's order.
- 13 I) Although the court concludes the Safe Storage Management Measures
14 are useful and advisable, the court concludes there is no specific factual
15 basis requiring the Safe Yield reset to include Safe Storage Management
16 Measures. Therefore the court concludes that even without the Safe
17 Storage Management Measures, reduction of Safe Yield to 135,000 AFY
18 will not harm the Basin.
- 19 II) The 2013 Chino Basin Groundwater Model Update and Recalculation
20 of Safe Yield Pursuant to the Peace Agreement is sufficiently
21 documented and the court finds the data reliable.
- 22 c) Wildermuth declaration, paragraph 15, states that the Basin protection
23 measures to which the parties have agreed and the 2015 Safe Yield
24 Reset Agreement, including the Safe Storage Management Measures,
25 will ensure that the Basin is not harmed by extractions of the 20,000 AF
26 that was allocated in the past 4 years and would have been allocated if
27 the Safe Yield have been reset to 135,000 AFY in 2011.
- 28 I) However, again Wildermuth does not specifically address the necessity

1 of the Safe Storage Measures with respect to complying with the Court
2 Approved Management Agreements. Therefore, the court again
3 concludes that even without the Safe Storage Management Measures,
4 reduction of Safe Yield to 135,000 AFY will not harm the Basin.

5 II) Again, the 2013 Chino Basin Groundwater Model Update and
6 Recalculation of Safe Yield Pursuant to the Peace Agreement is
7 sufficiently documented and the court finds the data reliable.

8 d) Therefore, the court concludes that the extraction of 135,000 AFY is
9 consistent with the Court Approved Management Agreements and does
10 not create any undesirable result or Material Physical Injury to the
11 Basin.

12
13 B. The measures set forth in Article 4 are consistent with the Physical Solution
14 under the judgment and Article X, section 2 of the California Constitution.

15
16 C. Paragraph 6 of the Restated Judgment is hereby amended to read as follows:
17 “Safe Yield. The Safe Yield of the Basin is 135,000 acre feet per year.”

18 1. The effective date of this amendment of Paragraph 6 of the Restated
19 Judgement is July 1, 2010.

20
21
22 **¶ IV. SAFE YIELD RESET AGREEMENT (SYRA): WATERMASTER**
23 **ALLOCATION HISTORY, EARLY TRANSFERS, AND THE**
24 **DESALTERS**

25 A. The 1978 Judgment as amended

26 1. The 1978 Judgment ¶44 made the following allocation of rights to Safe
27 Yield in the Chino Basin (“the physical solution”):

28

| Pool | Allocation |
|------|------------|
|------|------------|

| | |
|-----------------------------------|--|
| Overlying (Agricultural) Pool | 414,000 acre-feet in any 5 consecutive years (82,800 acre-feet per year)* ** |
| Overlying (Non-agricultural) Pool | 7366 acre-feet per year** |
| Appropriative Pool | 49,834 acre-feet per year |
| Total | 140,000 acre-feet per year |

*Note: $414,000 \div 5 = 82,800$. 82,800 acre-feet per year has been the basis of calculations for the Appropriative Pool going forward from the judgment.

Note: the rights of the members of the Overlying (Agricultural) Pool and the Overlying (Non-Agricultural) Pool are fixed (Restated Judgment ¶8, ¶44, see also Exhibits “C” and “D” to the Restated Judgment). **Therefore the effect of a decline of the safe yield is borne entirely by the members of the Appropriative Pool (Restated Judgment ¶9).

2. The Judgment ¶1(x) defines Safe Yield as “the long-term average annual quantity of groundwater (excluding replenishment or stored water but including return flow to the basin from use of replenishment or stored water) which can be produced [*i.e.*, pumped] from the basin under cultural conditions of the particular year without causing an undesirable result.”

3. The judgment fixed the amount of water production (pumping) that could be allocated to the Overlying (Agricultural) Pool and the Overlying (Non-agricultural) Pool. However, the Appropriative Pool allocation could be changed.

a) The court concludes that the disputes in the oppositions concern relationship between unproduced (*i.e.*, unpumped) Overlying Agricultural Pool water (aka Ag Pool water) and the water available to the Appropriative Pool.

4. Exhibit “T” to the judgment is the Engineering Appendix. It discusses Hydraulic Control and Re-Operation, which are described in more detail below. Section 3 defines Operating Safe Yield as consisting in any “year of the

1 Appropriative Pool's share of Safe Yield of the Basin, plus any controlled overdraft
2 of the Basin which Watermaster may authorize."

3 a) Section 3(b) states that "in no event shall Operating Safe Yield in any
4 year be less than the Appropriative Pool's share of Safe Yield, nor shall
5 it exceed such share of Safe Yield by more than 10,000 acre feet. The
6 initial Operating Safe Yield is hereby set at 54,834 acre feet per year."

7 I) The figure of 54,834 acre feet per year is the initial 1978 Judgment
8 allocation of 49,834 acre-feet per year plus 5,000 acre feet per year. The
9 additional 5,000 AFY comes from 200,000 acre-feet of overdraft (water
10 pumped without a replenishment obligation) allocated by the Judgment
11 to the Appropriative Pool. **This overdraft total was later increased**
12 **by 400,000 AF to a total of 600,000 AF.** The overdraft will be
13 exhausted in 2016/2017. (Watermaster Motion Regarding 2015 Safe
14 Yield Reset Agreement, Amendment of Restated Judgement, Paragraph
15 6, page 3, line 27.)

16 b) Operating Safe Yield has also come to mean water that the
17 Appropriative Pool could produce/pump without having to purchase
18 replenishment water. (Exhibit "H" ¶5.)

19 5. Exhibit "H" to the judgment described the Appropriative Pool Pooling
20 Plan, paragraph 10 described "Unallocated Safe Yield Water" as follows: "to the
21 extent that, in any 5 years, any portion of the share of Safe Yield allocated to the
22 Overlying (Agricultural) Pool is not produced, such water shall be available for
23 reallocation to members of the Appropriative Pool as follows:

24 (a) Priorities. Such allocation shall be made in the following sequence:
25 (1) to supplement, in the particular year, water available from Operating Safe
26 Yield to compensate for any reduction in the Safe Yield by reason of
27 recalculation thereof after the tenth year of operation hereunder. [This
28 Exhibit H ¶10(a)(1) priority is sometimes called 'unproduced Agricultural Pool

1 water' or 'unproduced Ag Pool water.' The current credited production
2 (pumping) for agricultural groundwater is about 33,600 AFY, but that includes
3 agricultural land irrigated with reclaimed water. The actual groundwater
4 production for agricultural purposes is about 22,000 AFY. (Jurupa Services
5 District's response to Judge Reichert's Request for Clarification, March 22,
6 2016, page 2, lines 8-10.)]

7 (2) pursuant to conversion claims as defined in Subparagraph (b) hereof.

8 (3) as a supplement to Operating Safe Yield, without regard to reductions in
9 Safe Yield."

10 6. In an order dated November 17, 1995, Conversion Claims were defined
11 in Exhibit "H" ¶10(b) [this is the Subparagraph (b) to which the preceding
12 paragraph--page 19 24, line 8 7--refers]. Peace I modified this definition in Exhibit
13 "H" ¶10(b) to state as follows:

14 (b) Conversion Claims. The following procedures may be utilized by any
15 appropriator:

16 1) Record of Unconverted Agricultural Acreage. Watermaster shall maintain
17 on an ongoing basis a record with appropriate related maps of all agricultural
18 acreage within the Chino Basin subject to being converted to appropriate
19 water use pursuant to the provisions of this paragraph. An initial
20 identification of such acreage as of June 30, 1995 is attached hereto as
21 Appendix 1.

22 (2) Record of Water Service Conversion. Any appropriator who undertakes
23 to permanently provide water service to lands subject to conversion may
24 report such intent to change water service to Watermaster. Watermaster
25 should thereupon verify such change in water service and shall maintain a
26 record and account for each appropriator of the total acreage involved.
27 Should, at any time, converted acreage return to water service from the
28 Overlying (Agricultural) Pool, Watermaster shall return such acreage to

1 unconverted status and correspondingly reduce or eliminate any allocation
2 accorded to the appropriator involved.

3 (3) Allocation of Safe Yield Rights

4 (i) For the term of the Peace Agreement in any year in which sufficient
5 unallocated Safe Yield from the Overlying (Agricultural) Pool is available for
6 such conversion claims, Watermaster shall allocate to each appropriator with
7 the conversion claim 2.0 acre-feet of unallocated Safe Yield water for each
8 converted acre for which conversion has been approved and recorded by
9 Watermaster.

10 (ii) In any year in which the unallocated Safe Yield water from the Overlying
11 (Agricultural) Pool is not sufficient to satisfy all outstanding conversion claims
12 pursuant to subparagraph (i) herein above, Watermaster shall establish
13 allocation percentages for each appropriator with conversion claims. The
14 percentages shall be based upon the ratio of the total of such converted
15 acreage approved and recorded for each appropriators's [sic] account in
16 comparison to the total of converted acreage approved and recorded for all
17 appropriators. Watermaster shall apply such allocation percentage for each
18 appropriator to the total unallocated Safe Yield water available for conversion
19 claims to derive the amount allocable to each appropriator.

20 7. CONCLUSION: With the 1995 amendments, the Judgment set a
21 prioritized list of claims upon unproduced Ag Pool water.

22 Ag Pool water--1995 Judgment amendment

23 82,800 AFY of the Ag Pool's water available to the Appropriative Pool with
24 Appropriative Pool claims prioritized as follows:

25 (1) to supplement, in the particular year, water available from Operating Safe
26 Yield to compensate for any reduction in the Safe Yield by reason of recalculation
27 thereof after the tenth year of operation as required by the Judgment;

28 (2) pursuant to conversion claims as defined in Subparagraph (b of Exhibit "H"

¶10(b);

(3) as a supplement to Operating Safe Yield, without regard to reductions in Safe Yield.

The court notes that there is currently more than 49,000 AFY of unproduced Agricultural Pool water available. (Jurupa Services District’s response to Judge Reichert’s Request for Clarification, March 22, 2016, page 2, lines 10–14.)

B. The 2000 Peace Agreement aka Peace I

1. With the agreements made in Peace I, the elements of Desalters and of water transfers entered the water allocations to the parties.

2. Peace I Section V-Watermaster Performance defined how Watermaster was to perform regarding procedures for Recharge and Replenishment. In paragraph ¶5.3(g), Watermaster was ordered to approve an “Early Transfer” from the Agricultural Pool to the Appropriative Pool of not less than 32,800 acre-feet per year which was the expected approximate quantity of water not produced by the Agricultural Pool. ¶5.3(g)(i) further stated that “the quantity of water subject to Early Transfer under this paragraph shall be the greater of (i) 32,800 acre-feet or (ii) 32,800 acre-feet plus the actual quantity of water not produced by the Agricultural Pool for that Fiscal Year that is remaining after all the land use conversions are satisfied pursuant to” the following provision: “the Early Transfer water shall be annually allocated among members of the Appropriative Pool in accordance with their pro-rata share of the initial Safe Yield.” The court notes that after this deduction, the Safe Yield water available to the Agricultural Pool became 50,000 acre-feet per year.

3. Peace I also introduced the construction and operation of Desalters in Section VII. ¶7.5 described replenishment for the Desalters provided from the following sources in the following order:

a) Watermaster Desalter replenishment account composed of 25,000 acre-feet of water abandoned by Kaiser and other water previously dedicated by the

1 Appropriative Pool;

2 (b) New Yield of the Basin, unless the water Produced and treated by the
3 Desalters is dedicated by purchaser of the Desalter water to offset the price of
4 Desalter water to the extent of the dedication;

5 (c) Safe Yield of the Basin, unless the water Produced and treated by the
6 Desalters is dedicated by a purchaser of the desalted water to offset the price of
7 Desalter water to the extent of the dedication; [and then]

8 d) Additional Replenishment Water purchased by Watermaster, the cost of
9 which shall be levied as an Assessment by Watermaster.

10 4. The court also concludes that the conversion claims have priority over
11 the Early Transfers because the conversion claims pre-existed the Early Transfer
12 allocations. The conversion claims came into existence with the 1995 Judgment
13 amendment. The Early Transfers came into existence with Peace I in 2000. The
14 Early Transfers must be interpreted in the context of the pre-existing 1995 Judgment
15 amendment.

16 5. CONCLUSION: With Peace I, there were major changes regarding the
17 allocation of water among the parties as set forth in the following table.

| Ag Pool water | Status and/or change result | Comments |
|----------------------------|---|----------|
| 1995 Judgment amendment | 82,800 AFY of the Ag Pool's water available to the Appropriate Pool with Appropriative Pool claims prioritized as follows: (1) to supplement, in the particular year, water available from Operating Safe Yield to compensate | |

| | | |
|--|--|--|
| | <p>for any reduction in the Safe Yield by reason of recalculation thereof after the tenth year of operation hereunder.</p> <p>(2) pursuant to conversion claims as defined in Subparagraph (b) hereof.</p> <p>(3) as a supplement to Operating Safe Yield, without regard to reductions in Safe Yield.</p> | |
| <p>2000 Peace I–Desalters start construction and pumping water</p> | <p>Early Transfers of 32,800 AFY of Ag Pool water going straight to the Appropriative Pool (leaving 50,000 AFY to Ag Pool). The remaining Ag Pool water is subject to Appropriative Pool’s prioritized claims.</p> | <p>New Yield (with conditions) is source of water to replenish water pumped by the Desalters. Under Peace I therefore Desalters do not affect Safe Yield or Operating Safe Yield. Water produced/pumped by the Desalters is not added to or subtracted from Safe Yield of the Basin.</p> |

The court concludes that Peace I interrelated Early Transfers and conversion claims in the following way. The Appropriative Pool received unproduced Ag Pool

1 water in at least the amount of 32,800 AFY, but the Appropriative Pool could receive
 2 more unproduced Ag Pool water if 1) the Ag Pool did not produce/pump its
 3 leftover 50,000 AFY and 2) also after subtracting from the 50,000 AFY the
 4 Appropriative Pool's conversion claims at the rate of 2 acre-feet per year per
 5 converted acre.

6 However, the court also concludes that Peace I did not rearrange the priority
 7 of allocation claims on unproduced/unpumped water. The priorities of the
 8 judgment remain. Specifically, the priority set forth in Judgment, Exhibit "H,"
 9 Paragraph 10.

10 EXAMPLE 1: So, for example in a particular year,

- 11 1. If one Appropriative Pool producer/pumper (e.g, municipality, such as the City of
 12 Chino) had 1000 acres of converted land resulting in 2000 acre-feet of conversion
 13 claims (1000 acres x 2.0 acre feet of water/one acre converted), and assuming those
 14 were the only conversion claims; and
- 15 2. If the Ag Pool produced/pumped only 33,600 AFY leaving 49,200 AFY available
 16 for further allocation (82,800 AFY– 33,600 AFY= 49,200 AFY; the court notes that
 17 33,600 AFY is the approximate Ag Pool credited production [Jurupa response to
 18 court's clarification request, page 2, lines 9-10], but the court is using this figure only
 19 for illustration); then,
- 20 3. The Ag Pool water that would be available to the Appropriative Pool would be
 21 based on the following calculation

| Example 1-A | Explanation | Comments |
|----------------------------------|--------------|---|
| Initial Ag Pool allocation | 82,800 AFY | |
| Ag Pool production/pumping | - 33,600 AFY | Assumption |
| Initial balance after production | 49,200 AFY | (82,800 acre-feet – 33,600 acre-feet = 49,200 acre-feet per year) |

| | | | |
|--|--|------------------|--|
| 1 2 3 4 5 6 7 8 9 | Conversion claims | - 2000 acre-feet | 1000 acres x 2.0 acre feet of water/one acre converted = 2000 acre-feet per year. The subtraction for satisfying conversion claims comes before any reallocation. The conversion claims are applied first because they are set forth in the 1995 Amendment to the Judgment |
| 10 11 12 13 14 15 16 | Ag Pool balance after reduction for conversion claims | 47,200 AFY | (49,200 acre-feet - 2000 acre-feet = 47,200 acre-feet per year) Balance: Ag Pool water available to Appropriative Pool after conversion priority claims pursuant to Judgment Exhibit "H" Paragraph 10. |
| 17 18 19 20 21 22 23 24 25 | Reduction for Early Transfers | - 32,800 AFY | The Early Transfer is now applied because Early Transfers were instituted in Peace I in 2000. The Early Transfer from 82,800 AFY allocation leaving 50,000 AFY for the Ag Pool itself to produce/pump and for additional claims by the Appropriative Pool pursuant to Peace I and Peace II.* |
| 26 27 28 | Balance: Ag Pool water available to the Appropriative Pool | 14,400 AFY | (47,200 acre-feet - 32,800 acre-feet = 14,400 acre-feet per year.) This is the total Ag Pool water |

| | | |
|---|--|--|
| <p>1 after conversion 2 priority claims and 3 Early Transfers</p> | | <p>available for reallocation to Appropriative Pool for production/pumping after subtraction of conversion priority claims of 2,000 acre-feet per year from and the 32,800 Early Transfer from the allotment of Ag Pool water.**</p> |
| | | |

10 *It appears to the court that for convenience, many parties first simply take the
11 reduction of the 32,800 acre-feet for Early Transfers and start these calculations with
12 50,000 acre-feet of Ag Pool water.

- 13 1. That calculation is simply to start with the 50,000 acre-feet of
14 unproduced/unpumped Ag Pool water and then subtract the amount 33,600
15 acre-feet that was actually pumped in this example. The result is 16,400 acre-
16 feet available for conversion claims.
- 17 2. Then subtract the 2,000 acre-feet for conversion claims to get the 14,400 acre-
18 feet of Ag Pool water available for allocation to the Appropriative Pool.
- 19 3. However, this procedure is inconsistent with the judgment and Peace
20 Agreements as interpreted by the court for the reasons stated above.

21 **The also court notes that the particular producer who serviced the converted acres
22 would actually be able to pump the additional conversion claim water as an
23 allocation.

24
25 EXAMPLE 2: The following example demonstrates complications arising
26 from a decrease in the amount of Ag Pool water available to the Appropriative Pool.
27 If the Ag Pool produced/pumped more than 48,000 AFY there would be no
28 available water for the Appropriative Pool.

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| Example 2 | | Comment |
|--|------------------|--|
| Initial Ag Pool allocation | 82,800 AFY | |
| Ag Pool production/pumping | 48,000 AFY | Assumption |
| Initial balance after production | 34,800 AFY | 82,800 acre-feet – 48,000 acre-feet = 34,800 acre-feet per year |
| Conversion claims | - 2000 acre-feet | The subtraction for satisfying conversion claims before any reallocation. (1000 acres x 2.0 acre feet of water/one acre converted = 2000 acre-feet). |
| Balance: | 32,800 AFY | 34,800 acre-feet – 2,000 acre-feet = 32,800 acre-feet per year. Ag Pool Water Available after conversion priority claims pursuant to Judgment Exhibit “H” Paragraph |
| Reduction for Early Transfers | - 32,800 AFY | Early Transfer of 32,800 AFY from 82,800 AFY allocation leaving 50,000 AFY for the Ag Pool itself to produce/pump. Any water which the Ag Pool did not produce/pump water up to the 50,000 AFY would be available for allocation to the Appropriative Pool pursuant to Peace I and Peace II. |
| Balance: Ag Pool water available after | 0 AFY | 32,800 acre-feet -32,800 acre-feet = 0 acre-feet per year. There would be no |

| | | |
|---|--|--|
| <p>conversion priority claims and Early Transfers</p> | | <p>Ag Pool water available for reallocation to Appropriative Pool after subtraction of conversion priority claims of 2,000 acre-feet and the 32,800 Early Transfer of unproduced/unpumped from the allotment of Ag Pool water.</p> |
|---|--|--|

Conclusion:
 Under this scenario, the Appropriative Pool would not get any additional allocation from Ag Pool water

6. Regarding replenishment for the Desalters, Peace I ¶7.5 sets forth the hierarchy of sources of replenishment water for the Desalters as follows:

Replenishment Water. Replenishment for the Desalters shall be provided from the following sources in the following order of priority.

(a) Watermaster Desalter Replenishment account composed of 25,000 acre-feet of water abandoned by Kaiser pursuant to the "Salt Offset Agreement" dated October 21, 1993, between Kaiser and the RWQB, and other water previously dedicated by the Appropriative Pool.

(b) New Yield of the Basin, unless the water Produced and treated by the Desalters is dedicated by a purchaser of the desalters water to offset the price of the salted water to the extent of the dedication;

(c) Safe Yield of the Basin, unless the water Produced and treated by the Desalters is dedicated by a purchaser of the the salted water to offset the price of the salted water to the extent of

1 the dedication;

2 (d) Additional Replenishment Water purchased by
3 Watermaster, the cost of which shall be levied as an Assessment by
4 Watermaster.

5
6 C. The 2007 Peace II Agreement (Peace II)

7 1. Peace II Agreement ~~Paragraphs 6.2(a)(iii) and 7.1~~ Article VI-
8 Groundwater by and Replenishment for Desalters and Article VII-Yield
9 Accounting further defined the accounting for the Desalters and Desalter
10 Production Offsets.

11 2. Peace II Paragraph 6.2(a)(iii) states as follows in pertinent part:
12 Peace II Desalter Production Offsets. To facilitate Hydraulic Control through
13 Basin Re-Operation, [court note: that is, water pumped by the Desalters as
14 part of the 600,000 AF controlled overdraft] in accordance with the 2007
15 Supplement to the OBMP Implementation Plan and the amended Exhibits G
16 and I to the Judgment, additional sources of water will be made available for
17 purposes of Desalter Production and thereby some or all of a Replenishment
18 obligation. With these available sources, the Replenishment obligation
19 attributable to Desalter production in any year will be determined by
20 Watermaster as follows:

21 (a) Watermaster will calculate the total Desalter Production for the
22 preceding year and then apply a credit against the total quantity from: . . .

23 (iii) New Yield (other than Stormwater (Peace Agreement Section
24 7.5(b)); . . .

25 v) Safe Yield that may be contributed by the parties (Peace
26 Agreement Section 7.5(c));

27 (vi) any Production of groundwater attributable to the controlled
28 overdraft authorized pursuant to amended Exhibit I to the Judgment.

1 [The Judgment allowed for a temporary controlled overdraft, *i.e.*,
2 initially 200,000 AF and then an additional 400,000 AF total
3 production/pumping starting in 2007 and ending in 2026 without
4 replenishment, in order to achieve Hydraulic Control. (Safe Yield Reset
5 Implementation Desalter Replenishment Accounting Illustration (per
6 Peace II Agreement, Section 6.2 (PIIA, 6.2) and June 11, 2015 Key
7 Principles)–Exhibit C to Attachment 1, Watermaster’s Motion regarding
8 2015 Safe Yield Reset Agreement, Amendment of Restated Judgment,
9 Paragraph 6.]

10 Paragraph 7.1 provides as follows:

11 New Yield Attributable to the Desalters. Watermaster will make an annual
12 finding as to the quantity of New Yield that is made available by Basin Re-
13 Operation including that portion that is specifically attributable to the Existing
14 and Future Desalters. Any subsequent recalculation of New Yield as Safe
15 Yield by Watermaster will not change the priority set forth above for
16 offsetting Desalter production as set forth in Article VII, Section 7.5 of the
17 Peace Agreement. For the initial term of the Peace Agreement, neither
18 Watermaster nor the Parties will request that Safe Yield be recalculated in a
19 manner that incorporates New Yield *attributable to the Desalters* [emphasis in
20 original] into a determination of Safe Yield so that this source of supply will be
21 available for Desalter Production rather than for use by individual parties to
22 the Judgment.

23 2. Additionally, in 2007 Peace II ¶1.1(d) defined Re-Operation as “the
24 controlled overdraft [pumping without replenishment] of the Basin by the managed
25 withdrawal of groundwater Production for the Desalters and the potential increase in
26 the cumulative un-replenished Production from 200,000 [acre-feet] authorized by
27 paragraph 3 Engineering Appendix Exhibit I to the Judgment, to 600,000 acre-feet
28 for the express purpose of securing and maintaining Hydraulic Control as a

1 component of the Physical Solution.” The Peace II agreement amended the Restated
2 Judgment’s Engineering Appendix to specify the additional 400,000 acre-feet that
3 would be dedicated exclusively to the purpose of Desalter replenishment (Restated
4 Judgement Exhibit “I” §2(b)[3]).

5 3. ~~Peace II injected confusion into the definitions in the chain of~~
6 ~~agreements. This confusion is identified in Chino’s Opposition to Watermaster’s~~
7 ~~Motion regarding 2015 Safe Yield Reset Agreement Amendment of Restated~~
8 ~~Judgment, Paragraph 6, page 18, lines 19-28. Peace II, Paragraph 6.2(a)(iii) gives~~
9 Watermaster a basis to calculate the total Desalter production from the preceding
10 year and then apply against that production/pumping a “credit” (*i.e.*, a reduction)
11 which included a number of factors, including New Yield referencing Peace I,
12 paragraph 7.5(b). ~~The court must resolve this confusion because it~~ **This credit**
13 **procedure is the central opposition of JCSD, and it is an important issue going**
14 forward for the administration of water allocations:

15 a) Peace I, paragraph 1.1(aa) defines New Yield as “proven increases in
16 yield in quantities greater than historical amounts from sources of
17 supply including, but not limited to, operation of the Desalters
18 (including the Chino I Desalter), induced Recharge and other
19 management activities implemented in operational after June 1, 2000.”

20 I) The court concludes that New Yield in the above paragraph means
21 water produced/pumped by the Desalters, because that is how yield is
22 always used, e.g., Safe Yield, Operating Safe Yield, etc., and the source
23 of supply is the Desalters as identified in the definition.

24 II) So, New Yield includes water produced/pumped by the Desalters.

25 b) Peace I, paragraph 1.1(nn) defines “Recharge and Recharge Water as
26 “introduction of water to the Basin, directly or indirectly,” Recharge
27 references the physical act of introducing water to the Basin.”

28 c) The conclusion of the court is that after Peace II, the definition New

1 Yield now includes both Desalter operation, *i.e.*, production/pumping
2 from the Desalters, and induced Recharge (*i.e.*, groundwater flowing
3 back into the Basin from the Santa Ana River as the result of Desalter
4 operation).

5 ~~I) Up to and including Peace II, Desalter production and recharge had~~
6 ~~always been defined as New Yield, and excluded from Safe Yield.~~

7 d) Peace II was consistent with Peace I. Peace II provided that
8 the parties would avoid some or all or a replenishment
9 obligation for Desalter production by getting credit/reduction
10 against that production from sources such as New Yield which
11 includes induced Recharge.

12 I) Peace I defined New Yield to include "operation of the
13 Desalters" and "induced Recharge."

14 II) The court concludes that the Peace I and Peace II when read
15 together recognized that some of the water which the
16 Desalters produced/pumped came from induced recharge from
17 the Santa Ana River.

18 III) Peace II was not explicit it stating that the Desalter
19 production offset should follow the priorities of Peace I ¶7.5,
20 but the court concludes that the replenishment water, *i.e.*,
21 Desalter-induced recharge, must follow the priorities of Peace
22 I.

23 (a) The agreements must be read together and interpreted
24 together because they form a context for each other.

25 e) In its response to Judge Reichert's questions, Chino argued that SYRA's
26 failure to give a specific definition to "Desalter-induced recharge" was
27 purposeful because the failure allowed SYRA to use "Desalter-induced
28 recharge" synonymously with New Yield. The court does not find

1 “Desalter-induced recharge” to be synonymous with New Yield. The
2 court finds that “Desalter-induced recharge” is only synonymous with
3 “induced Recharge.” Therefore Desalter-Inducted Recharge is included
4 in the definition of New Yield, as set forth in Peace I ¶1(aa): “induced
5 Recharge and other management activities implemented in operational
6 after June 1, 2000” includes Desalter-induced recharge.

7 I) . The court further finds that “Desalter-induced recharge” and
8 “induced Recharge” mean water flowing back into the Basin from the
9 Santa Ana River due to production/pumping by the Desalters lowering
10 the ground water table in the Basin. Finally, the court notes that New
11 Yield includes Desalter production and Desalter-induced recharge as
12 well as Desalter overdraft.

13 (a) This result is exactly what the Desalters were designed to
14 accomplish. They have achieved Hydraulic Control, meaning they
15 have lowered the water table at the south end of the Basin, so that
16 only a de minimus amount of Basin water is flows into the Santa
17 Ana River.

18 (b) In fact the Desalters have accomplished their design objective so
19 well that now some water flows from the Santa Ana River into the
20 Chino Basin. The court finds that his water is New Yield as set
21 forth above.

22 II) The court further finds that “Desalter-induced recharge” aka “induced
23 Recharge” is measureable, part of which comes from the Santa Ana
24 River, and is set forth in Watermaster’s response to the court’s
25 questions. This water is also known as Santa Ana River Underflow or
26 SARU.

27 4. Peace II specified Desalter production/pumping replenishment to
28 include induced Recharge, controlled overdraft, and other sources set forth in Peace

1 II ¶6.2(a). The Peace I and Peace II agreements did not specify any additional
2 sources of Desalter replenishment, such as Ag Pool water or Safe Yield.

3 5. CONCLUSION:

4 Now, after Peace II, there were additional sources of water for the Basin, the
5 Desalter operation/Desalter-induced recharge, as well as the historical overdraft, as
6 summarized below.

| Ag Pool water | | Comments |
|--------------------------------|---|----------|
| 8 1995 Judgment 9 amendment | 8 82,800 AFY of the Ag 9 Pool's water available to 10 the Appropriate Pool with 11 Appropriative Pool claims 12 prioritized as follows: 13 (1) to supplement, and the 14 particular year, water 15 available from Operating 16 Safe Yield to compensate 17 for any reduction in the 18 Safe Yield by reason of 19 recalculation thereof after 20 the tenth year of 21 operation hereunder. 22 (2) pursuant to conversion 23 claims as defined in 24 Subparagraph (b) hereof. 25 (3) as a supplement to 26 Operating Safe Yield, 27 without regard to 28 reductions in Safe Yield. | |

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| <p>2000 Peace I–Desalters start construction and pumping water</p> | <p>Early Transfers of 32,800 AFY of Ag Pool water now go to the Appropriative Pool (leaving 50,000 AFY to Ag Pool). The remaining Ag Pool water is subject to Appropriative Pool’s prioritized claims. Peace I §1.1(aa) defines New Yield to include water produced/pumped from the Desalters.</p> | <p>New Yield (with conditions) is source of water to replenish water pumped by the Desalters. Water produced/pumped by the Desalters is New Yield and sourced by induced recharge and overdraft. As New Yield, water pumped by the Desalters is not Safe Yield or Safe Operating Yield. That water is “yield” attributable to specific sources of supply not included in Safe Yield. (Watermaster’s Response to Order for Additional Briefing, page 5, line 22-23.) Therefore at the time of Peace I Desalter operations did not affect Safe Yield or Operating Safe Yield. Water produced/pumped by</p> |
|--|--|---|

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| | | <p>the Desalters is was not added to or subtracted from yield of the Basin. Water produced/pumped by the Desalters has had a separate allocation.</p> |
| <p>2007 Peace II-overdraft increased</p> | <p>Additional 400,000 AF above the 200,000 AF provided in the Judgment for a total of 600,000 AF.</p> | <p>This is a diminishing pumping allocation as the overdraft goes to 0 in 2017. Its purpose was to help establish Hydraulic Control.</p> |
| <p>Peace II Desalters</p> | <p>Peace II ¶7.1 requires Desalter production (defined as New Yield) excluded from the definition of Safe Yield. However, Peace II Article VI identifies offsets for Desalter production, which includes New Yield the meaning of which includes induced Recharge. (Peace I, ¶1.1(aa).)</p> | <p>Desalter production reaches above 20,000 AFY. Watermaster's Response to Order for Additional Briefing, Exhibit 1.</p> |

The court concludes that Peace II did not change any of the priorities for

1 claims on actual water production. Peace II addressed Desalter replenishment and
2 production/pumping but did not affect the priorities for allocations of unproduced
3 Ag Pool water.

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5
6 **~~VI V. SYRA ARTICLE 5-STORMWATER RECHARGE PLAN AND~~**
7 **~~WATERMASTER ACCOUNTING ANALYSIS~~**

8 In the instant motion, Watermaster asks the court to approve 1) a stormwater
9 recharge plan, and 2) an accounting for allocation transfers as set forth in the Safe
10 Yield and Reset Agreement (SYRA). The court will address these proposals
11 separately.

12 ~~A. Stormwater Recharge SYRA ¶5.1. SYRA ¶5.1 sets forth the following~~
13 ~~provisions regarding Stormwater Recharge.~~

14 ~~5.1 Stormwater Recharge. After the Effective Date and until termination~~
15 ~~of this Agreement, the Parties expressly consent to Watermaster's accounting~~
16 ~~for Basin recharge arising from stormwater as follows:~~

17 ~~(a) 2001-2014 Stormwater Recharge Program. Stormwater recharge~~
18 ~~that arises from or is attributable to the 2001-2014 Stormwater Recharge~~
19 ~~Program shall be: (i) New Yield for the period 2001-2014 in the manner that~~
20 ~~it has been distributed through approved Watermaster Assessment Packages;~~
21 ~~and (ii) Safe Yield in each subsequent year. For the 2001-2014 Stormwater~~
22 ~~Recharge Program, Watermaster shall cause no reduction against Safe Yield~~
23 ~~requiring supplementation by the reallocation of a portion of the unproduced~~
24 ~~Overlying (Agricultural) Pool's share of the Basin's Safe Yield.~~

25 ~~(b) Post-2014 Stormwater Recharge Projects. For the remainder of~~
26 ~~the term of the Peace Agreement, inclusive of an extension term, if any,~~
27 ~~stormwater recharge that arises from or is attributable to Post-2014~~
28 ~~Stormwater Recharge Projects shall be allocated as set forth in this Paragraph~~

1 5.1(b).

2 ~~(i) Interim Accounting between Resets. For any and all Post-~~
3 ~~2014 Stormwater Recharge Projects completed in the interim period~~
4 ~~between subsequent Safe Yield resets, Net New Recharge attributable~~
5 ~~to specific Post-2014 Stormwater Recharge Projects shall be New~~
6 ~~Yield, as that term is defined in the Peace Agreement and will be~~
7 ~~allocated based upon observed and quantified annual net increases~~
8 ~~rather than projected future estimates of annual performance. New~~
9 ~~Yield attributable to Post-2014 Stormwater Recharge Projects shall be~~
10 ~~credited annually to the Project participants, in the Production Year in~~
11 ~~which such New Yield actually arises. Post-2014 Stormwater Recharge~~
12 ~~Project New Yield is in addition to Safe Yield and therefore by~~
13 ~~definition it shall cause no reduction against Safe Yield requiring~~
14 ~~supplementation by the reallocation of a portion of the unproduced~~
15 ~~Overlying (Agricultural) Pool's share of the Basin's Safe Yield.~~

16 ~~(ii) Post-Safe Yield Reset Accounting for Post-2014~~
17 ~~Stormwater Recharge Projects. Upon any reset of the Safe Yield after~~
18 ~~2015, any Net New Recharge that occurs as a result of specific Post-~~
19 ~~2014 Stormwater Recharge Projects that have been previously approved~~
20 ~~and fully implemented at the time of the reset shall be considered as a~~
21 ~~potential change in cultural conditions as provided in the Reset~~
22 ~~Technical Memorandum and thereafter considered a component of the~~
23 ~~Safe Yield, if the Post-2014 Stormwater Recharge Projects to which the~~
24 ~~Net New Recharge is attributable have been constructed and in~~
25 ~~operation for a minimum of five (5) years prior to the reset. The Net~~
26 ~~New Recharge will be measured and accounted for and will be made~~
27 ~~available exclusively to the members of the Appropriative Pool in~~
28 ~~accordance with Paragraph 5.1(c) below. Following a reset of the Safe~~

1 ~~Yield, Post-2014 Stormwater Recharge Project recharge will be included~~
2 ~~within Safe Yield and its separate measurement and allocation shall~~
3 ~~cause no reduction against Safe Yield requiring supplementation by the~~
4 ~~reallocation of a portion of the unproduced Overlying (Agricultural)~~
5 ~~Pool's share of the Basin's Safe Yield. Moreover, Post-2014~~
6 ~~Stormwater Recharge Projects that have been fully constructed and in~~
7 ~~operation for less than five (5) years, or the Net New Recharge from~~
8 ~~which is otherwise not included as a component of Safe Yield pursuant~~
9 ~~to the Reset Technical Memorandum, will be treated "as if" the Net~~
10 ~~New Recharge were Safe Yield for the limited and exclusive purpose of~~
11 ~~quantifying the annual supplementation by the reallocation of a portion~~
12 ~~of the unproduced Overlying (Agricultural) Pool's share of the Basin's~~
13 ~~Safe Yield. Examples of how Watermaster will conduct the accounting~~
14 ~~described in this Section 5.1(b) (ii) are included in Exhibit "B" hereto.~~

15 ~~(c) — Participation in Post-2014 Stormwater Recharge Programs. The~~
16 ~~Parties contemplate that Post-2014 Stormwater Recharge Projects, such as~~
17 ~~those projects described in Watermaster's Court approved 2013 Amendment~~
18 ~~to 2010 Recharge Master Plan Update, may be completed after the after the~~
19 ~~Effective Date, as part of suites of such Projects (each suite of Projects, a~~
20 ~~"Post-2014 Stormwater Recharge Program" and collectively, "Post-2014~~
21 ~~Stormwater Recharge Programs"). Watermaster shall prepare an estimate of~~
22 ~~the Net New Recharge projected to arise from or be attributable to proposed~~
23 ~~Post-2014 Stormwater Recharge Programs. Based on this pre-approval~~
24 ~~estimate, Watermaster shall quantify each member of the Appropriative Pool's~~
25 ~~proportionate share of the potential Net New Recharge benefits in accordance~~
26 ~~with its percentage of Operating Safe Yield and calculate its corresponding~~
27 ~~capital financing obligations. Each Appropriative Pool member's~~
28 ~~proportionate share of the potential Program Net New Recharge benefits and~~

1 corresponding financing obligations shall be referred to as its "Participation
2 Share" in the Program. The Participation Shares in a particular Program shall
3 remain unchanged regardless of actual Program yield. Within six months of
4 the Effective Date, Watermaster, with the recommendation and advice of the
5 Pools and Advisory Committee, will develop rules and regulations for the
6 definition of Post-2014 Stormwater Programs and Participation Shares therein.

7 Any member of the Appropriative Pool may elect, in its discretion, not
8 to participate in certain Post-2014 Stormwater Recharge Programs. In the
9 case a member of the Appropriative Pool has cast a final vote against an
10 approved Post-2014 Stormwater Recharge Program, then that member may
11 elect, in its complete discretion, to opt out of its Participation Share, by
12 providing written notice to the members of the Appropriative Pool, within
13 ninety (90) days of the approval of the Post-2014 Stormwater Recharge
14 Program. Notice shall be provided through a request that the election be
15 placed on the agenda of a regularly scheduled meeting of the Appropriative
16 Pool, and offering the other members of the Appropriative Pool the right to
17 assume its respective Participation Share of stormwater recharge New Yield or
18 Safe Yield attributable to the Post-2014 Stormwater Recharge Program, along
19 with the Pool member's assumption of all applicable rights and
20 responsibilities.

21 (i) In the event that one or more members of the
22 Appropriative Pool voting against the approval of a Post-2014
23 Stormwater Recharge Program elects to opt out of its Participation
24 Share therein, each shall permanently waive and relinquish, without
25 limitation, all right to all the benefits accruing under its Participation
26 Share of a Post-2014 Stormwater Recharge Program;

27 (ii) An Appropriative Pool member electing to opt out of
28 participation in a Post-2014 Stormwater Recharge Program shall be

1 assigned no further financial obligation attributable to a Participation
2 Share in the Post-2014 Stormwater Recharge Program that was the
3 subject of the election;

4 (iii) ~~Fontana Water Company (FWC), a member of the~~
5 ~~Appropriative Pool, and any successor in interest thereto, shall have the~~
6 ~~first priority and exclusive right and obligation to acquire the~~
7 ~~Participation Shares, representing up to 2,000 AFY (cumulative~~
8 ~~maximum) of projected annual average recharge arising from or~~
9 ~~attributable to one or more Post-2014 Stormwater Recharge Programs,~~
10 ~~which may be made available by one or more members of the~~
11 ~~Appropriative Pool opting out of the Post-2014 Stormwater Recharge~~
12 ~~Programs. If Participation Shares in Post-2014 Stormwater Recharge~~
13 ~~Programs are available in excess of FWC's first priority right of up to~~
14 ~~2,000 AFY under this provision, then each member of the~~
15 ~~Appropriative Pool may elect to participate in the acquisition of the~~
16 ~~excess Participation Shares along with its corresponding assumption of~~
17 ~~duties associated therewith. Available Participation Shares shall be~~
18 ~~distributed among the members of the Appropriative Pool electing to~~
19 ~~acquire the Participation Shares, pro rata based on the total number of~~
20 ~~members electing to acquire, including FWC. The acquisition of any~~
21 ~~obligations and benefits pursuant to this Paragraph shall survive the~~
22 ~~expiration of the Peace Agreement, for the life of the Post-2014~~
23 ~~Stormwater Recharge Program, pursuant to the same terms and~~
24 ~~conditions generally applicable to all Project Participants.~~

25 (iv) ~~FWC shall have a right of first refusal (ROFR) as to any~~
26 ~~transfer, lease, or assignment (collectively "transfer") of any portion of a~~
27 ~~Participation Share by any member of the Appropriative Pool until a~~
28 ~~cumulative maximum of 2,000 AFY of Participation Shares has been~~

1 acquired by FWC. ~~Any member of the Appropriative Pool desiring to~~
2 ~~transfer any portion of its Participation Share will provide sixty (60)~~
3 ~~days written notice of its intention to transfer to FWC along with a~~
4 ~~copy of any agreement and accompanied by a reasonable description of~~
5 ~~the transfer. Upon its receipt of written notice, FWC may, in its~~
6 ~~complete discretion, elect to match the offer and the Appropriative~~
7 ~~Pool member providing its notice of intention to transfer must sell the~~
8 ~~identified Participation Shares. After FWC has acquired a cumulative~~
9 ~~total of 2,000 AFY of Participation Shares, its right to share in Post-~~
10 ~~2014 Stormwater Recharge Programs shall be limited to the provisions~~
11 ~~of Paragraph 5.1(c)(iii) above. FWC's ROFR, as described in this~~
12 ~~Section 5.1(c)(iv), shall be limited only to those transfers as to which the~~
13 ~~City of Ontario is not the proposed transferee.~~

14 ~~B. — Analysis and orders re Stormwater Recharge Plan SYRA ¶5.1~~

15 ~~The court approves the Stormwater Recharge Plan as set forth in SYRA ¶5.1~~
16 ~~and orders Watermaster and the parties to comply for the following reasons:~~

17 1. ~~There have been no objections to this aspect of SYRA.~~

18 2. ~~The court notes that the previous Court Approved Management~~
19 ~~Agreements have not covered the aspects of stormwater recharge addressed in this~~
20 ~~paragraph.~~

21 3. ~~The court finds that the Stormwater Recharge Plan is consisted with the~~
22 ~~Court Approved Management Agreements.~~

23 4. ~~This method of dealing with stormwater recharge has the agreement of~~
24 ~~the parties. There has not been any opposition to these terms of SYRA.~~

25 5. ~~There not appear to the court to be a legal or practical reason why these~~
26 ~~provisions cannot be implemented without regard to the other terms of SYRA.~~

27 6. ~~The court recognizes that Stormwater Recharge is a necessary element~~
28 ~~for achieving the objectives of the Court Approved Management agreements.~~

1 7. ~~The court also notes that paragraph 5.1(c) provides flexibility for future~~
2 ~~stormwater recharge “yield enhancement” projects and a mechanism whereby~~
3 ~~members of the Appropriative Pool can opt out.~~

4 8. ~~The court finds that Watermaster’s prior allocation and accounting for~~
5 ~~stormwater recharge is consistent with the Court Approved Management~~
6 ~~Agreements both before and after the Safe Yield reset.~~

7 9. ~~The stormwater recharge is consistent with the Article X Section 2 of~~
8 ~~the California Constitution.~~

9 A. Stormwater Recharge—SYRA ¶5.1

10 1. Although there have been no objections to this aspect of
11 SYRA, the court denies its enforcement because the court finds that
12 SYRA’s provisions regarding anything other than they Safe Yield reset
13 cannot be severed for the reasons set forth in Section II above.

14
15 B. Desalter-Induced Recharge Allocations, Early Transfers, Land Use
16 Conversion—SYRA ¶5.2 and SYRA ¶5.3.

17 1. Because these provisions are major sources or contention
18 among the parties, the court will set them forth in their entirety.

19 SYRA ¶5.2 sets forth the following provisions regarding Desalter Induced
20 Recharge, and SYRA ¶5.3 sets forth the following provisions regarding Post 2030
21 Land Use Conversions and Early Transfers.

22 5.2 Desalter-Induced Recharge. After the Effective Date and until
23 termination of this Agreement, the parties expressly consent to Watermaster’s
24 accounting for Basin recharge arising from or attributable the Desalters as
25 follows:

26 (a) 2001-2014 Desalter-Induced Recharge. Induced recharge that
27 arises from or is attributable to the Desalters for the period of production
28 years 2001-2014 shall be accounted for as Safe Yield, in the manner it has been

1 distributed through approved Watermaster Assessment Packages, shall not be
2 considered New Yield, and shall not be considered to have been available for
3 production by the Desalters.

4 (b) 2015-2030 Desalter-Induced Recharge. For the production years
5 of 2015- 2030, Watermaster shall account for induced recharge that arises
6 from or is attributable to the Desalters as equal to fifty (50) percent of the total
7 Desalter Production during each applicable production year up to a maximum
8 of twenty-thousand (20,000) AFY of recharge. Consistent with Paragraph
9 6.2(a)(iii) of the Peace II Agreement, Watermaster shall deem the induced
10 recharge as having been produced by the Desalters. During each applicable
11 production year, Watermaster shall reduce Safe Yield by an amount equal to
12 fifty (50) percent of the total Desalter Production, up to a maximum of
13 twenty-thousand (20,000) AFY, and require a corresponding supplementation
14 by the reallocation of available unproduced Agricultural Pool's share of the
15 Basin's Safe Yield.

16
17 Claims for reallocation of the remaining unproduced quantity of the
18 Agricultural Pool's share of Safe Yield shall be satisfied consistent with section
19 6.3(c) of Watermaster's Rules and Regulations, as amended as part of the
20 Peace II Measures, and the October 8, 2010 Order Approving Watermaster's
21 Compliance with Condition Subsequent Number Eight and Approving
22 Procedures to be used to Allocated Surplus Agricultural Pool Water in the
23 Event of a Decline in Safe Yield.

24 (c) 2031-2060 Desalter-Induced Recharge. Should the term of the
25 Peace Agreement be extended pursuant to Paragraph 8.4 thereof, the
26 treatment of Desalter-Induced Recharge shall be subject to the negotiation of
27 a new and separate agreement among the Parties to the Judgment. The
28 accounting provided for in Section 5.2(b), above, shall be without prejudice to

1 the negotiation of such a new and separate agreement among the Parties to the
 2 Judgment. Unless otherwise agreed by the Parties or ordered by the court,
 3 during the extension term, Watermaster shall not consider such recharge to
 4 require supplementation by the reallocation of a portion of the unproduced
 5 Agricultural Pool's share of Safe Yield.

6
 7 5.3 Post-2030 Priority among Land Use Conversion and Early Transfer
 8 Claims. At the expiration of the Peace II Agreement, the Peace II provisions
 9 relating to the distribution of surplus water by the Agricultural Pool requiring
 10 that claims for the Early Transfer of 32,800 AFY and for Land Use
 11 Conversion be treated equally are expressly repealed including (i) the
 12 amendment to Section 6.3(c) of Watermaster's Rules and Regulations,
 13 pursuant to the Peace II measures, and (ii) Section III.(6) of the October 8,
 14 2010 Order Approving Watermaster's Compliance with Condition Subsequent
 15 Number Eight and Approving Procedures to be used to Allocate Surplus
 16 Agricultural Pool Water in the Event of a Decline in Safe Yield. In any Peace
 17 Agreement extension term, the previous changes to Restated Judgment,
 18 Exhibit "H", Paragraph 10(b)(3)(i) effectuated by Paragraph 4.4(c) of the
 19 Peace Agreement, which, to the extent sufficient unallocated Safe Yield from
 20 the Agricultural Pool is available for conversion claims, allocate 2.0 acre-feet
 21 of unallocated Safe Yield water for each converted acre, shall remain in effect.

22
 23 C. The court summarizes the effect of these SYRA proposals ¶5.2 and ¶5.3 as
 24 follows:

| Ag Pool water | | Comments |
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| 1995 Judgment amendment | 82,800 AFY of the Ag Pool's water available to the Appropriate Pool with | |

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| | <p>Appropriative Pool claims prioritized as follows:</p> <p>(1) to supplement, and the particular year, water available from Operating Safe Yield to compensate for any reduction in the Safe Yield by reason of recalculation thereof after the tenth year of operation hereunder.</p> <p>(2) pursuant to conversion claims as defined in Subparagraph (b) hereof.</p> <p>(3) as a supplement to Operating Safe Yield, without regard to reductions in Safe Yield.</p> | |
| <p>2000 Peace I– Desalters start construction and pumping water</p> | <p>Early Transfers of 32,800 AFY of Ag Pool water now goes to the Appropriative Pool (leaving 50,000 AFY to Ag Pool). The remaining Ag Pool water is subject to Appropriative Pool’s prioritized claims.</p> | <p>New Yield (with conditions) is source of water to replenish water pumped by the Desalters. Therefore Desalters do not affect Safe Yield or Operating Safe Yield. Water produced/pumped by the Desalters is not</p> |

| | | |
|---|---|--|
| | | added to or subtracted from Safe Yield or Operating Safe Yield of the Basin. |
| 2007 Peace II-overdraft increased | Additional 400,000 AF above the 200,000 AF provided in the Judgment for a total of 600,000 AF. | This is a diminishing pumping allocation as the overdraft goes to 0 in 2017. |
| <p>SYRA proposal: (see column to right for <i>Steps 1-3</i>): <i>Step 4</i>: SYRA ¶5.2(b) subtracts 50% of total Desalter production up to 20,000 AFY from Ag Pool Water and then adds that 50% of total Desalter production up to 20,000 AFY to Safe Yield (to make up for the subtraction in <i>Step 3</i>).*</p> | <p>SYRA proposal <i>Step 1</i>: The Desalter production/pumping up to 20,000 AFY is allocated to the Desalters, not as Safe Yield or Safe Operating Yield [or New Yield].</p> <p><i>Step 2</i>: Under SYRA ¶5.2(b) one-half of the source of Desalter production up to 20,000 AFY is attributed to “Desalter-induced recharge.” Desalter-induced Recharge means water flowing back into the Basin from the Santa Ana River.</p> <p><i>Step 3</i>: SYRA then subtracts the other half of Desalter production up to 20,000 AFY from Safe Yield.</p> | |

Additional SYRA Effects: Step 5 (see above for *Steps 1-4*)

The Ag Pool water allocation is reduced by up to 20,000 AFY for the Desalters. SYRA is unclear where the priority lies with respect to priority of allocation as required by Judgment Exhibit “H” Paragraph 10. The court orders that those priorities must be followed. Because the court has ordered that those priorities be followed, court concludes that it cannot order these provisions of SYRA in addition to SYRA’s not being severable. At best SYRA is ambiguous with respect to following the priorities set by the Judgment and the Court Approved Management Agreements. At worst, SYRA contradicts them.

*So, the court concludes that previous to SYRA, the Desalter water ~~was considered to have its own source (Desalter-Induced Recharge and/or overdraft) and its own production allocation (New Yield)~~ production/pumping could be offset from a prioritized list of sources including New Yield (induced recharge). Now under SYRA:

1) All of the induced recharge gets allocated to water produced/pumped by the Desalters.

2) Watermaster reduces Safe Yield by 50% of the Desalter production up to 20,000 AFY.

3) Then, Watermaster adds to Safe Yield 50% of the Desalter production up to 20,000 AFY, from water allocated to the Ag Pool, to make up for (aka backfill) the reduction in Safe Yield allocated to Desalter production.

4) This means that the availability of Ag Pool water goes down and thereby the availability of unproduced Ag Pool water for the priorities set forth in the Judgment and the Court Approved Management Agreements. The priorities are also set forth in Watermaster Rules and Regulations ¶6.3(a).

5) Elaborating on Example 1-A from Section ~~V.B.2~~ **IV.B.5** of this order above, the court’s analysis is as follows

| Example 1-B | Explanation | Comment |
|-------------|-------------|---------|
|-------------|-------------|---------|

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| | | |
|----------------------------------|------------------|---|
| Initial Ag Pool allocation | 82,800 AFY | Judgment |
| Ag Pool production/pumping | - 33,600 AFY | Assumption based the current credited production (pumping) for agricultural groundwater is about 33,600 AFY, but that includes agricultural land irrigated with reclaimed water. [The actual groundwater production for agricultural purposes is about 22,000 AFY. Jurupa Services District's response to Judge Reichert's Request for Clarification, March 22, 2016 page 2, lines 8-10.] |
| Initial balance after production | 49,200 AFY | 82,800 acre-feet – 33,600 acre-feet = 49,200 acre-feet |
| Conversion claims | - 2000 acre-feet | Assumption: The subtraction for satisfying conversion claims before any reallocation. (1000 acres x 2.0 acre feet of water/one acre converted = 2000 acre-feet). |
| Balance: | 47,200 AFY | 49,200 acre-feet - 2000 acre-feet = 47,200 acre-feet. Ag Pool Water available after conversion priority claims pursuant to Judgment Exhibit "H" Paragraph 10 |

| | | | |
|--|-------------------------------|--------------|--|
| 1 2 3 4 5 6 7 | Reduction for Early Transfers | - 32,800 AFY | Basic Early Transfer from 82,800 AFY allocation leaving 50,000 AFY for the Ag Pool itself to produce/pump and for additional claims by the Appropriative Pool pursuant to Peace I and Peace II.* |
| 8 9 10 11 12 13 14 15 16 17 | Balance | 14,400 AFY | (47,200 acre-feet -32,800 acre-feet = 14,400 acre-feet. This is the Ag Pool water available for reallocation to Appropriative Pool after subtraction of conversion priority claims of 2,000 acre-feet from and the 32,800 Early Transfer of unproduced/unpumped from the allotment of Ag Pool water. |

19 Now, to examine the effect of SYRA on the Appropriative Pool:

| | | | |
|----------------------|--|--------------|--|
| 20 21 22 | Starting balance available Ag Pool water | 14,400 AFY | Total Ag Pool water available for production/pumping from the example above |
| 23 24 25 26 | Desalter reallocation | - 20,000 AFY | SYRA Desalter reallocation: 20,000 AFY of Desalter production is allocated from Ag Pool water to Safe Yield. |
| 27 28 | Balance: | - 5,600 AFY | A negative amount. This plausible scenario assumes 2,000 |

1 AFY of conversion claims. The
 2 negative balance shows that this
 3 scenario under SYRA would not
 4 leave sufficient Ag Pool water for
 5 that amount of conversion
 6 claims. In order to meet
 7 conversion claims and Early
 8 Transfer allocations, the Ag Pool
 9 would only be able to
 10 produce/pump 26,000 AFY, well
 11 below their current credited
 12 pumping. Calculation follows:
 13 82,800/initial allocation
 14 - 26,000/pumped = 56,800
 15 56,800 - 2,000/conversion
 16 claims = 54,800
 17 54,800 - 32,800/Early Transfer
 18 = 20,000
 19 20,000 - 20,000/Desalter
 20 reduction from Ag Pool
 21 Allocation = 0

22 The court concludes that there is no basis in the Judgement or any of the Court
 23 Approved Management Agreements for the post SYRA result identified in the
 24 plausible scenario above.

25
 26 D. Further Analysis and orders:

- 27 1. In addition to SYRA's not being severable, the court denies
 28 Watermaster's motion with respect to the implementation of ¶5.2 and ¶5.3 of SYRA

1 for the following reason:

- 2 a) The court concludes that SYRA paragraphs 5.2 and 5.3 fundamentally
3 change the allocations of Appropriative Pool and of Ag Pool water.
4 Those fundamental changes are inconsistent with the Judgment and the
5 Court Approved Management Agreements
- 6 b) Peace I and Peace II both define Desalter production as within the
7 definition of New Yield and therefore outside of the definition of Safe
8 Yield. Through a several step re-allocation reassignment described
9 above and summarized in this section of the court's order, SYRA now
10 moves Desalter production into Safe Yield. The parties have not
11 demonstrated any legal ~~or practical requirement~~ basis which allows this.
12 Peace I and Peace II prohibit this.
- 13 c) The court concludes that Peace II Agreement Paragraphs 6.2(a)(iii) and
14 7.1 provide that through 2030 (the initial term of Peace I Agreement as
15 set forth in ¶8.2) recharge attributable to the Desalters is allocated for
16 Desalter Production and not allocated as Safe Yield producible (*i.e.*,
17 water available to be pumped without a replenishment obligation by
18 purchase or otherwise).
- 19 I) Peace II ¶7.1 excluded New Yield attributable to the Desalters from
20 a determination of Safe Yield, at least for the 30 year term of Peace
21 Agreement.
- 22 II) Peace I ¶1.1(aa) defines New Yield to include induced recharge.
- 23 (a) The court finds that induced recharge includes Desalter-
24 induced recharge.
- 25 III) The court finds that Peace I ¶7.5 defines replenishment water for
26 the Desalters includes New Yield, but not Safe Yield.
- 27 IV) The court finds that Peace II ¶7.1 states that no party can
28 incorporate New Yield attributable to the Desalters into Safe Yield.

1 (a) In contradiction to Peace I and Peace II, SYRA ¶5.2(a)
2 explicitly defines Desalter-induced recharge as Safe Yield, in
3 contradiction to Peace I and Peace II.

4 V) In contradiction to the Peace I and Peace II, the court finds that
5 SYRA attempts to incorporate New Yield from the Desalters into
6 Safe Yield through the accounting method of 1) taking Desalter
7 induced yield water coming from Desalter-induced recharge, then 2)
8 moving that water into Safe Yield, then 3) backfilling Safe Yield
9 from unproduced Ag Pool water.

10 (a) This is an unacceptable circumvention of the court's
11 orders based on Peace I and Peace II.

12 d) The analysis above shows that these SYRA provisions are contrary to
13 the Judgment and the Court Approved Management Agreements,
14 specifically Peace I and Peace II. These **SRYA** provisions can prevent
15 the application of the Judgment provisions regarding conversion claims.
16 They are invalid.

17 e) There is no basis in the Judgment or the Court Approved Management
18 Agreements for the attribution of water production from Desalters into
19 the definition of Safe Yield.

20 f) There is no basis in the Judgment or any of the Court Approved
21 Management Agreements for the splitting and reallocation of Desalter
22 production/pumping to one-half to Desalter-induced recharge and one-
23 half to Safe Yield.

24 g) There is no basis in the Judgment or any of the Court Approved
25 Management Agreements to reallocate Ag Pool water to Safe Yield to
26 make up for the Safe Yield reallocated to the Desalters.

27 h) Due to the Desalters, there is now recharge coming from the Santa Ana
28 River back into the Chino Basin. SYRA Paragraph 5.2(b) takes the

1 Peace I and Peace II agreements one step—wrongfully—farther by
2 identifying how this recharge quantity will be estimated, *i.e.*, 50% of
3 Desalter Production, and then further specifies that amount of recharge
4 will be allocated to Desalter production and not to the parties as part of
5 their allocation of the Safe Yield. There is no legal basis in the
6 Judgment or the Court Approved Management Agreements for this
7 redefinition of Safe Yield to include of 50% of Desalter Production up
8 to 20,000 AFY through a mechanism of passing the amounts through
9 the Appropriative Pool allocation.

10 i) SYRA attempts now to remove the special exception for New Yield
11 from Desalter induced recharge and production and incorporate it into
12 Safe Yield. The mechanism by which SYRA attempts to do this is by 1)
13 taking half of the Desalter production and sourcing that
14 production/pumping from Desalter induced recharge from the Santa
15 Ana River and 2) sourcing the other half from the Appropriative Pool
16 through unproduced Ag Pool water. The court concludes and finds
17 that this attempt is not justified because it can interfere with the priority
18 of claims on unproduced Ag Pool water set forth in the judgment and
19 the Court-Approved Management Agreements.

20 I) The court notes that Peace II, Article VII-Yield Accounting,
21 ¶7.2(d) discusses a contingency if Western Municipal Water
22 District (WMWD) and the Appropriative Pool “do not reach
23 agreement on apportionment of controlled overdraft of
24 Future Desalters, then no later than August 31, 2009, the
25 members of the Appropriative Pool will submit a plan to
26 Watermaster that achieves the identified goals of increasing
27 the physical capacity of the Desalters and potable water use
28 of approximately 40,000 acre-feet of groundwater

1 production from the Desalters from the Basin no later than
2 2012.”

3 II) The court concludes that the Desalter production of 40,000
4 acre-feet has been under discussion since Peace II in 2007.

5 III) However, the court cannot accept the resolution set forth
6 in SYRA for the reasons stated in this order.

7 j) SYRA ¶5.2 and ¶5.3 contradict and conflict with Peace I and Peace II.

8 I) Peace II ¶7.1 requires neither Watermaster nor the parties to request
9 that safe yield be recalculated in a manner that incorporates New
10 Yield *attributable to the Desalters* into the determination of Safe Yield
11 so that this source of supply will be available for Desalter
12 Production rather than for use by individual parties to the judgment.
13 (Emphasis in original.)

14 II) SYRA now includes New Yield in the determination of Safe Yield in
15 two ways.

16 (a) First, SYRA takes up to 20,000 AFY away from Safe Yield
17 through Desalter Production.

18 (b) Second, SYRA adds back up to 20,000 AFY to Safe Yield
19 from unproduced Ag Pool water.

20 (c) The net change to Safe Yield is 0, but available Ag Pool water
21 for allocation is reduced up to 20,000 AFY. This re-allocation
22 and re-accounting, is not justified or supported in the Peace I,
23 Peace II, Watermaster Rules and Regulations, or the court’s
24 orders of implementation, the Judgment, or the CAMAs.

25 (d) The following chain shows SYRA’s violations of the
26 previous orders:

27 (i) Desalter-induced recharge is New Yield. (Peace
28 ¶1(aa).)

- (ii) Peace II ¶7.1 prevents New Yield from being incorporated within Safe Yield.
- (iii) SYRA moves 20,000 AFY of Desalter-induced recharge to the Ag Pool.
- (iv) Then SYRA moves the 20,000 of Desalter-induced recharge (now characterized as Ag Pool Water) into Safe Yield.
- (v) Therefore, SRYA recalculates Safe Yield to incorporate New Yield in violation of Peace II ¶7.1
- (vi) Moving the 20,000 AFY of Desalter-induced Recharge through the portal of the Ag Pool water does not change its definition of New Yield.

k) The court does not find a legal ~~or factual basis~~ for determining a post-2030 priority among land use conversion and early transfer claims. The priority is set forth in the judgment and as specified in this order

l) **In addition to SYRA's not being severable**, the court's 2010 order does not require the implementation of ¶5.2 or ¶5.3.

Section III.(6) of the October 8, 2010 order states:

Watermaster is ordered to utilize the procedures regarding the re-allocation of surplus Agricultural Pool water the event of a decline in Safe Yield as described in the December 2008 staff report and the December 4, 2008 memorandum from legal counsel. Specifically, in the event that Operating Safe Yield is reduced because of a reduction in Safe Yield, Watermaster will follow the hierarchy provided for in the Judgment, exhibit "H," by first applying the unproduced Agricultural Pool water to

1 compensate Appropriative Pool members for the reduction in
2 Safe Yield. (Judgment, Exhibit “H,” paragraph 10 (a).) If there
3 is unallocated water left, Watermaster will then follow the
4 remainder of the hierarchy and reallocate unallocated Agricultural
5 Pool water next to conversion claims then to supplement the
6 Operating Safe Yield without regard to reductions in Safe Yield
7 according to the guidance provided by Peace Agreement I & II
8 and Watermaster’s rules and regulations as amended. If, after
9 applying the unallocated Agricultural Pool water to compensate
10 the Appropriate Pool members for the reduction in Safe Yield,
11 the actual combined production from the Safe Yield made
12 available to the Agricultural Pool, which includes overlying
13 Agricultural Pool uses combined with land use conversions and
14 the Early Transfer, exceeds 82,800 in any year, the amount of
15 water available to members of the Appropriative Pool shall be
16 reduced pro rata in proportion to the benefits received according
17 to the procedures outlined in Watermaster Rules and
18 Regulations.

19 I) In considering the reference to Watermaster Rules and
20 Regulations in the preceding paragraph, **if the order is vague**, the
21 court now ~~considers the order vague~~ **clarifies it**. In the instant order,
22 the court has clarified that Watermaster must follow the priorities set
23 forth in the Judgment for allocations of unproduced Ag Pool water.

24 II) The court has the continuing jurisdiction to interpret and apply
25 its previous orders in light of changing circumstances. In light of the
26 instant motion, the court is doing so.

27 III) JCSD correctly points out that pursuant to the Judgment
28 ¶15 the court is authorized “to make such further or supplemental

1 orders or directions as may be necessary or appropriate for
2 interpretation, enforcement or tearing out of this judgment”

3 IV) Because there has not been a reset in Safe Yield, the court
4 does not find that there has been a detrimental reliance on the court’s
5 October 8, 2010 Order. This would not be the first time that the
6 court’s orders and interpretations thereof have the subject of further
7 litigation.

8 V) Watermaster’s further response to order for additional briefing,
9 filed April 11, page 3, lines 15-19 states:

10 Both responses provided by the City of Chino and JCSD omit
11 the key fact: Section 6.3(c) Watermaster Rules and Regulations,
12 as amended pursuant to Peace II measures provides that water
13 unused by members of the Agricultural Pool shall be divided
14 equally between Land Use Conversions and Early Transfers. The
15 Court’s October 8, 2010 Order provides that this shall be done
16 even if the safe yield declines. For the first time, approximately
17 five years following this Order, the City and JCSD would set it
18 aside and thereby unwind accounting, court approvals, and
19 agreements impliedly if not expressly made in reliance thereon.

20 m) No party has offered any specific detriment that would occur from the
21 court’s instant orders regarding the priorities.

22 n) Watermaster is relying on its own interpretation of its own rules and
23 regulations which the court does not accept for the reasons set forth
24 herein. The court has clarified its October 8, 2010 Order.

25 I) Watermaster cannot use its own interpretations of the
26 court’s orders to contradict the court’s interpretation. The final
27 decision is the court’s, not Watermaster’s.

28 II) If there is any ambiguity that Watermaster finds ~~The court finds~~

1 also that in the current circumstances for the application of that Order
2 III.(6) ~~is may also be ambiguous~~ the court clarifies it now. SYRA's
3 reference to that order's provision does not help in its clarification or
4 application.

5 III) Watermaster argues that "in the event that Operating Safe
6 Yield is reduced because of a reduction in Safe Yield, Watermaster will
7 follow the reallocation hierarchy provided for in the Appropriative Pool
8 Pooling Plan by first applying the unallocated Ag Pool water to
9 compensate the Appropriate Pool members for the reduction in safe
10 yield. (Restated Judgment, exhibit "H), paragraph 10 (a).) If, thereafter,
11 there is unallocated water left, Watermaster then followed the
12 remainder of the hierarchy and reallocate unallocated agricultural Pool
13 water next to land use conversion claims and Early Transfer, and then
14 to supplement the Operating Safe Yield without regard reductions in
15 safe yield." (Watermaster's Reply to Oppositions to Motion regarding
16 2015 Safe Yield Recent Agreement, Amendment Restated Judgment,
17 Paragraph 6, page 24, lines 7-14.)

18 IV) This argument equates land use conversion claims and
19 Early transfer claims. This argument is incorrect for the reasons stated
20 herein. Additionally:

21 (a) The court's order filed October 8, 2010, paragraph III.(6)
22 ~~actually states~~ is quoted in full in section "I" above:

23 ~~Watermaster is ordered to utilize the procedures regarding the~~
24 ~~re-allocation of surplus Agricultural Pool water in the event of~~
25 ~~a decline in Safe Yield as described in the December 2008~~
26 ~~staff report and December 4, 2008 memorandum from legal~~
27 ~~counsel. Specifically, in the event that the Operating Safe~~
28 ~~Yield is reduced because of a reduction in Safe Yield,~~

1 ~~Watermaster will follow the hierarchy provided for in the~~
2 ~~Judgment, Exhibit "H," by first applying the unallocated~~
3 ~~Agricultural Pool water to compensate the Appropriate Pool~~
4 ~~members for the reduction in Safe Yield. (Judgment, Exhibit~~
5 ~~"H," Paragraph 10(a).) If there is unallocated water left,~~
6 ~~Watermaster will then follow the remainder of the hierarchy~~
7 ~~and reallocate unallocated Agricultural Pool water next to~~
8 ~~conversion claims then to supplement Operating Safe Yield~~
9 ~~without regard to reductions in Safe Yield according to the~~
10 ~~guidance provided by Peace Agreement I & II and~~
11 ~~Watermaster's Rules and Regulations as amended. If, after~~
12 ~~applying the unallocated Agricultural Pool water to~~
13 ~~compensate the Appropriative Pool members for the~~
14 ~~reduction in Safe Yield, the actual combined production from~~
15 ~~the Safe Yield made available to the Agricultural Pool, which~~
16 ~~includes overlying Agricultural Pool uses combined with land~~
17 ~~use conversions and the early transfer, exceeds 82,800 in any~~
18 ~~year, the amount of water available to members of the~~
19 ~~Appropriative Pool shall be reduced pro rata in proportion to~~
20 ~~benefits received according to the procedures outlined in the~~
21 ~~Watermaster Rules and Regulations.~~

22 (b) This paragraph III.(6) provides no basis to equate land use
23 conversions and Early Transfers. The specific language of the
24 order requires Watermaster to follow the hierarchy in Judgment,
25 Exhibit "H" which does not include, or even mention, Early
26 Transfers. Early transfers were an aspect of Peace I, and the
27 court has interpreted and ordered the hierarchy to require
28 conversion claims to have priority over Early Transfer claims.

- 1 o) **Additionally**, the court rejects and denies the implementation of SYRA
2 ¶5.3 specifically because, as with SYRA ¶5.2, this provision has the
3 same problems of interpretation of the court’s 2010 Order Approving
4 Watermaster’s Compliance with Condition Subsequent Number Eight
5 and Approving Procedures to be used to Allocate Surplus Agricultural
6 Pool Water in the Event of a Decline in Safe Yield.
- 7 p) Watermaster’s erroneous interpretation of the order of priorities is not a
8 basis to continue that erroneous interpretation. If Watermaster has to
9 make a reallocation, then it must do so in order to follow the court’s
10 order. A wrong practice can be long-standing, and still be wrong. A
11 wrong practice cannot be a basis of prejudice.
- 12 q) The court rejects any argument that this issue is subject to issue
13 preclusion. The specific issues raised by the oppositions to the motion
14 have not been specifically addressed by the court. They are not barred
15 by laches. The issues have been timely raised within the context of the
16 instant motion, and the court always retains jurisdiction to modify its
17 orders as those orders are drawn to the attention of the court, and the
18 court determines they require modification for the reasons set forth in
19 this order.

20
21 D. Dispute re priority of claims

22 A dispute has arisen concerning the priority of claims. The dispute concerns
23 the priority of allocation claims to unproduced/unpumped Ag Pool water. The 1978
24 Judgment, Exhibit “H,” Paragraph 10 was very specific as set forth in section A of
25 this ruling above. For convenience, it is repeated here.

26 Paragraph 10 described “Unallocated Safe Yield Water” as follows:

27 To the extent that, in any 5 years, any portion of the share of Safe Yield
28 allocated to the Overlying (Agricultural) Pool is not produced, such

1 water shall be available for reallocation to members of the
2 Appropriative Pool as follows:

3 (a) Priorities. Such allocation shall be made in the following sequence:

4 (1) to supplement, and the particular year, water available from
5 Operating Safe Yield to compensate for any reduction in the Safe Yield
6 by reason of recalculation thereof after the tenth year of operation
7 hereunder.

8 (2) pursuant to conversion claims as defined in Subparagraph (b)
9 hereof.

10 (3) as a supplement to Operating Safe Yield, without regard to
11 reductions in Safe Yield.”

12 Confusion has arisen with respect to the relationship between the Judgment,
13 Exhibit “H,” Paragraph 10 on the one hand, and Watermaster Rules and Regulations
14 ¶6.3(a) on the other. Watermaster Rules and Regulations ¶6.3(a) states as follows:

15 Accounting of Unallocated Agricultural Portion of Safe Yield. In each
16 year, the 82,800 acre-feet being that portion of the Safe Yield Made
17 available to the Agricultural Pool under the Judgment, shall be made
18 available:

19 (i) To the Agricultural Pool to satisfy all demands for overlying
20 Agricultural Pool lands;

21 (ii) To land-use conversions were completed prior to October 1,
22 2000;

23 (iii) To land use conversions that have been completed after October
24 1, 2000; and

25 (iv) To the Early Transfer of 32,800 acre-feet from the Agricultural
26 Pool to the Appropriative Pool in accordance with their pro-rather
27 assigned share of Operating State Yield.

28 The confusion arises because Watermaster Rules and Regulation ¶6.3(a) does

1 not explicitly confirm the priority of allegations set forth in the Judgment and as
2 ordered by the court.

3 Chino has argued that

4 [T]he members of the Appropriative Pool have received the right to
5 participate in annual allocations of the Unproduced Agricultural Pool
6 Water instead of every five years called “Early Transfers” (Paragraph
7 5.3(f-g), Peace Agreement) and the right to an equal priority of Early
8 Transfers with Land Use Conversion Claims, which have a higher
9 priority under the Judgment, in order to maximize the amount of their
10 Early Transfer water to the appropriators do not have Land Use
11 Conversion Claims. (Paragraph 3.1(a)(i) and Attachment “F”, Peace II
12 Agreement). City of Chino’s Opposition Watermaster Motion
13 regarding 2015 Safe Yield Reset Agreement, Amendment of Restated
14 Judgment, Paragraph 6, page 13, lines 19-25.

15 Attachment “F” refers to the Watermaster Rules and Regulations 6.3(c). As
16 stated above, the court finds Watermaster Rules and Regulations 6.3(c) ambiguous.

17 The court finds that the Judgment must govern and take priority and
18 precedent for the interpretation of any Watermaster rule or regulation, including
19 Watermaster Rules and Regulations 6.3(c).

20
21 **At this time, the court additionally orders as follows:**

22 A. The order of priorities set forth in the Judgment, Exhibit “H,” Paragraph
23 10 must be followed; and

24 B. Watermaster Rules and Regulations ¶ 6.3, and particularly ¶¶6.3(a) and (c),
25 are to be interpreted to follow the priorities set forth in Judgment, Exhibit “H,”
26 Paragraph 10. In particular, **the court orders** conversion claims are to receive a
27 higher priority than Early Transfer claims for the following reasons:

28 (1) The conversion claims are set forth in the judgment;

1 (2) Early Transfer claims were a creation of Peace I;

2 (3) Early Transfer claims did not affect the priority of claims set forth in
3 the judgment;

4 (4) Early Transfer claims were ordered after the judgment and so must
5 be considered subordinate to the original terms of the judgment.

6 (5) The parties to Peace I made their agreement in the context of the
7 judgment and therefore used the Judgment priorities as a basis for additional
8 allocations of Ag Pool water.

9
10 **¶ VI. SAFE STORAGE MANAGEMENT MEASURES**

11 A. Through the facilitation and nondisclosure agreement (FANDA) Watermaster
12 attempted to facilitate an agreement among all parties avoid an accelerated
13 cumulative draw on Excess Carry Over stored water in order to avoid undue risks.
14 SYRA had provisions to establish a mechanism for a safe storage reserve of 130,000
15 AF of water in the non-Supplemental Water storage accounts of the members of the
16 Appropriative Pool as a reserve sufficient to protect the Basin. However, the
17 concern for basin protection was balanced with temporary needs in the event of an
18 emergency or to support Desalter Replenishment. Up to 100,000 AF could be
19 accessed in the event of an emergency subject to conditions

20 a) The plan which Watermaster attempted to facilitate is identified in
21 SYRA as “the safe storage reserve and safe storage management plan”
22 or the safe storage management measures (SSMM).

23 b) The City of Chino (Chino) has the largest component of Excess Carry-
24 Over water and was the most significantly affected party.

25 c) Chino refused to agree to SSMM.

26
27 B. The court rejects the adoption of the Safe Storage Management Measures set
28 forth in the SYRA Article 6. The court is not going to set forth the provisions of

1 SYRA Article 6 because the court is rejects the article as a whole.

2
3 C. The court rejects Article 6 of SYRA for the following reasons:

4 1. SYRA is not severable as set forth above.

5 2. Watermaster states that access to safe storage in the short term is
6 extremely remote.

7 3. The volume in stored water accounts of Appropriative Pool members is
8 about 357,000 AF as of June 30, 2014.

9 4. The Judgment Parties presently lack the infrastructure capability (wells
10 and pipelines) that would produce the quantity of water from storage that would
11 trigger production from the safe storage reserve that is identified in SYRA.

12 5. Article 6 is essentially a statement of intent without specificity of
13 implementation. The court refuses to consider or authorize an inchoate plan.

14 a) Although Watermaster argues that the Safe Storage Management
15 Agreement provisions are still subject to “stakeholder process get to be
16 initiated” (Watermaster’s Reply to Oppositions to Motion regarding
17 2015 Safe Yield Reset Agreement, Amendment of Restated Judgment,
18 Paragraph 6, page 1, line 18), the court does not approve policy
19 statements and therefore rejects any implementation.

20 6. The Safe Storage Technical Memorandum (Exhibit E to the motion)
21 does not set forth a factual basis for the court to order the parties to proceed with
22 the provisions of Article 6. While the memorandum states that the SSMM will not
23 cause Material Physical Injury or undesirable results, the memorandum does not
24 include that the SSMM are essential to the OBMP.

25 a) ~~However, the court encourages the parties to continue to negotiate~~
26 ~~SSMM, and notwithstanding this ruling, the court of course reserves the~~
27 ~~option to revisit the plan set forth in Article 6 or similar storage~~
28 ~~management plans.~~

1 7. The court notes that from 2000 to 2014, the short-term actual measured
2 net recharge was less total rights allocated to the judgment Parties by as much as
3 130,000 AF.

4 a) From this the court concludes that during this period from 2000 to
5 2014, after offsets for production, there was recharge to the basin in
6 excess of what water was actually produced by as much as 130,000 AF.

7 b) This recharge was accounted for in the storage of Excess Carry-Over
8 water.

9 ~~c) The court finds that Watermaster was not biased in its facilitation for
10 the SYRA.~~

11 8. The court does not reach the arguments of Chino that the SSMM
12 constitutes a “taking”.

13 9. The safe storage measures are not required by the physical solution of
14 the Judgment, Peace I, Peace II, the court approved management agreements, the
15 OBMP, the court orders of implementation, or Article X, section 2 of the California
16 Constitution.

17 18 19 **VII. The Safe Yield Reset and Ag Pool Water: Recalculation**

20 **A. The court finds that the Safe Yield reset to 135,000 AFY is a**
21 **“recalculation” within the definition of Judgment, Exhibit “H” ¶10.**

22 **1. SYRA used the term “reset” to describe lowering the Safe Yield to**
23 **135,000 AFY.**

24 **a) Now that the court has rejected all of SYRA except the lowering of**
25 **Safe Yield to 135,000 AFY, the court finds that “reset” is a legally**
26 **unjustified and legally incorrect term for describing the lowering the**
27 **Safe Yield to 135,000 AFY. For the reasons stated herein, the court**
28 **finds that lowering the Safe Yield to 135,000 is a recalculation**

1 within the definition of Judgment, Exhibit “H” ¶10(a)(1). For the
2 rest of this order, the court will correctly use the term recalculation
3 for lowering the Safe Yield from 140,000 AFY to 135,000 AFY.

4 b) Wildermuth himself calls it a recalculation. Exhibit I to his
5 declaration is entitled Declaration of Mark Wildermuth-2013 Chino
6 Basin Groundwater Model Update and *Recalculation* of Safe Yield
7 Pursuant to all the Peace Agreements. [Emphasis added.]

8 c) The recalculation to 135,000 is pursuant to the “tenth year” of
9 operation evaluation required by the Judgment.

10 d) Watermaster and the City of Ontario argue to the contrary, but the
11 “reset” lowering of Safe Yield fits any ordinary definition of the
12 word “recalculation.”

13 I) The whole point of the SYRA motion, related motions, and series
14 of hearings has been for the court to determine how to integrate
15 the reduction of the Safe Yield from 140,000 AFY to 135,000
16 AFY. The court finds this reduction to be a recalculation of the
17 Safe Yield into the current reality of the Chino Basin.

18 (a) In the context of SYRA, the use of the term “reset” might
19 have made some legal sense. However, now that the court
20 has rejected everything but the reduction, the label “reset”
21 has no basis in fact or law.

22 II) The court cannot find any other way to reconcile these
23 provisions and their interpretations while keeping the ruling
24 consistent with reality. The reduction in Safe Yield is a
25 recalculation, no matter how subtle the attorneys’ arguments
26 are.

27 2. Therefore, the court finds and orders that the first 5,000 AFY of any
28 unproduced Ag Pool water now has a top priority over any other claims, such as

conversion claims and early transfers, and that 5,000 AFY of Ag Pool water be allocated to Operating Safe Yield pursuant to Judgment Exhibit H ¶10(a).

a) This 5,000 AFY has top priority because it is part of the Judgment.

b) To further illustrate the court's orders, based on the tables in sections IV.B.5 and V.D.5 above

| Example 1-B | Explanation | Comment |
|--|--------------|--|
| Initial Ag Pool allocation | 82,800 AFY | Judgment |
| Subtract 5,000 AFY | - 5,000 | Safe Yield recalculation reduction pursuant to Judgment Exhibit H ¶10 |
| Ag Pool production/pumping | - 33,600 AFY | Assumption based the current credited production (pumping) for agricultural groundwater is about 33,600 AFY, but that includes agricultural land irrigated with reclaimed water. The actual groundwater production for agricultural purposes is about 22,000 AFY. Jurupa Services District's response to Judge Reichert's Request for Clarification, March 22, 2016 page 2, lines 8-10.] |
| Initial balance after production and reset | 44,200 AFY | 82,800 acre-feet - 5,000 - 33,600 acre-feet = 44,200 acre-feet |

| | | | |
|--|--------------------------------------|-------------------------|--|
| 1 2 3 4 5 6 | Conversion claims | - 2000 acre-feet | Assumption: The subtraction for satisfying conversion claims before any reallocation. (1000 acres x 2.0 acre feet of water/one acre converted = 2000 acre-feet). |
| 7 8 9 10 11 12 | Balance: | 42,200 AFY | 44,200 acre-feet - 2000 acre-feet = 42,200 acre-feet. Ag Pool Water available after conversion priority claims pursuant to Judgment Exhibit "H" Paragraph 10 |
| 13 14 15 16 17 18 19 | Reduction for Early Transfers | - 32,800 AFY | Basic Early Transfer from 82,800 AFY allocation leaving 50,000 AFY for the Ag Pool itself to produce/pump and for additional claims by the Appropriative Pool pursuant to Peace I and Peace II. |
| 20 21 22 23 24 25 26 27 28 | Balance | 9,400 AFY | (42,200 acre-feet -32,800 acre-feet = 14,400 acre-feet. This is the Ag Pool water available for reallocation to Appropriative Pool after subtraction of the recalculation reallocation, the conversion priority claims of 2,000 acre-feet from and the 32,800 Early Transfer of |

unproduced/unpumped from
the allotment of Ag Pool water.

VIII. Safe Yield Reset and Desalter-Induced Recharge

The court concludes and orders that Desalter-Induced Recharge is only to be applied to offset Desalter production. ~~However, the court also orders that Desalter production is limited to 20,000 AFY for the term of Peace I.~~ The court's analysis involves going back to the basics of the judgment and the Peace Agreements.

A. The Revised Judgment

1. The Judgment ¶I.4.(x) defines "Safe Yield" as "the long-term average annual quantity of groundwater . . . which can be produced from the Basin under cultural conditions of a particular year without causing an undesirable result."

2. The Judgment ¶I.4.(l) defines "Operating Safe Yield" as "the annual amount of water which Watermaster shall determine, pursuant to the criteria specified in Exhibit "I", can be produced from Chino Basin by the Appropriative Pool parties free of replenishment obligation under the Physical Solution herein.

a) Exhibit "I" is the Engineering Appendix which has come to include the definitions of Hydraulic Control, Re-Operation water, and Desalter production.

3. Judgment Exhibit "H" ¶I0 Unallocated Safe Yield Water states: "to the extent that, in any five years, any portion of the share of Safe Yield allocated to the Overlying (Agricultural) pool is not produced, such water shall be available for reallocation to members of the appropriative pool, as follows:

1 (a) **Priorities.**-Such allocation shall be made in the following
2 sequence:

3 (1) to supplement, in the particular year, water available
4 from Operating Safe Yield to compensate for any reduction in the
5 Safe Yield by reason of recalculation thereof after the tenth year of
6 operation hereunder.

7 (2) pursuant to conversion claims as defined in Subparagraph
8 (b) hereof.

9 (3) as a supplement to Operating Safe Yield, without regard
10 to reductions in Safe Yield.

11
12 **B. The 2000 Peace Agreement I**

13 **I. Peace I Section I(ee) defines “Operating Safe Yield” as the “annual**
14 **amount of groundwater which Watermaster shall determine, pursuant to criteria**
15 **specified in Exhibit “I” to the judgment, can be produced from Chino Basin by**
16 **the Appropriative Pool free of Replenishment obligation under the Physical**
17 **Solution. Watermaster shall include any New Yield in determining Operating**
18 **Safe Yield.”**

19 **a) This is a modification of the definition of “Operating Safe Yield”**
20 **from the Judgment. In fact, the court notes “IV-Mutual Covenants,**
21 **¶ 4.5 Construction of “Operating Yield” Under the Judgment.**
22 **Exhibit I to the Judgment shall be construed to authorize**
23 **Watermaster to include New Yield as a component of Operating**
24 **Safe Yield.”**

25
26 **C. The 2007 Peace Agreement II**

27 **I. Article VII Yield Accounting, ¶7.1 New Yield Attributable to the**
28 **Desalters states “for the initial term of the Peace Agreement, neither**

1 Watermaster nor the Parties will request that Safe Yield be recalculated in a
2 manner that incorporates New Yield *attributable to the Desalters* into the
3 determination of Safe Yield so that this source of supply will be available for
4 Desalter Production rather than for use by individual parties to the Judgment.”
5 (Emphasis in original.)
6

7 **D. The Safe Yield Recalculation and Desalter-Induced Recharge**

8 ~~1. The legal problem for the court is to reconcile the Judgment, Peace~~
9 ~~Land Peace II with the 20,000 AFY of Desalter Production. The court solves~~
10 ~~this problem as follows.~~

11 2. Watermaster correctly states that that desalter induced recharge
12 can only be used to offset desalter production. From this Watermaster concludes
13 that Safe Yield of 135,000 acre-feet per year must include Desalter-induced
14 recharge. This conclusion is wrong.

15 a) Through many avenues, Watermaster has attempted to include
16 Desalter-Induced Recharge (with the new abbreviation of “DIR”)
17 within the definition of Safe Yield.

18 b) Watermaster has never explicitly offered an explanation of why
19 Watermaster has attempted so diligently to convince the court to
20 include Desalter-Induced Recharge within the definition of Safe
21 Yield.

22 I) The court considers that Watermaster’s explanation might include
23 an argument that if Desalter-Induced Recharge is not included
24 within the definition of Safe Yield, the parties could produce/pump
25 water from Desalters without limit, with the result that water could
26 be drained from the Santa Ana River without limit. That result
27 would be not only detrimental to the hydrology of the entire region,
28 but also legally unjustified.

1 c) In its latest argument, Watermaster has offered to “sequester” the
2 portion of Safe Yield attributable to Desalter-Induced Recharge.

3 I) The court does not accept this characterization of Desalter
4 production/pumping allocation because it is simply a
5 characterization of an accounting.

6 II) The “sequestration” has no basis in the CAMA’s and adds a new,
7 vague, undefined term to an already complicated structure of
8 accounting.

9 III) Watermaster argues “that Desalter-Induced Recharge is an
10 inflow to the Basin and therefore a component of Safe Yield.”

11 (a) The court rejects this argument because it contradicts the
12 requirement of Peace II that for the initial term of the Peace
13 Agreement, Safe Yield will not be recalculated to include New
14 Yield attributable to the Desalters.

15 (b) Desalter-Induced Recharge is the source of (and offset to)
16 New Yield attributable to the Desalters. That New Yield cannot
17 be included in Safe Yield. So, so under Peace II, Safe Yield also
18 does not include Desalter-Induced Recharge. (Peace I ¶
19 1.1(aa)-definition of New Yield; Peace I ¶7.5-Replenishment
20 Water; Peace II ¶6.2-Peace II Desalter Production Offsets.)

21 IV) The Responding AP Members argue that the court can only
22 be consistent in its orders if the court resets the Safe Yield to
23 115,000 AFY. The court also rejects this argument for the
24 following reasons.

25 (a) Using Watermaster's own proposal, the court recognizes that
26 there is some logic to the position of the Responding AP
27 Members because 1) if the 20,000 AFY is “sequestered” that it is
28 not available for production/pumping without a replenishment

1 obligation and 2) then the reality is the safe yield should be
2 135,000 AFY - 20,000 AFY for a net of 115,000 AFY.

3 (b) However, the court concludes that the structure set up by the
4 Judgment, Peace I, and Peace II require that there be separate
5 analyses for Safe Yield and New Yield attributable to the
6 Desalters.

7 (i) The analysis for Safe Yield is illustrated in this order Sec.
8 VII.5.a above.

9 (ii) The analysis for Desalter-Induced Recharge and New
10 Yield attributable to the Desalters is described in Peace I and
11 Peace II and the further order as set forth herein.

12 (iii) Watermaster has been accounting for these analyses
13 since 2007, so it should not be a problem for Watermaster to
14 continue to do so.

15 (c) The Responding AP Members also argues that the technical
16 reports show that the basin can safely only sustain 135,000 AFY.

17 (d) However, in Exhibit 1 to the Declaration of Mark
18 Wildermuth - 2013 Chino Basin Groundwater Model Update and
19 Recalculation of Safe Yield Pursuant to Peace Agreements,
20 section 1.2.3, "the updated Watermaster Model was used to
21 estimate Santa Ana River Underflow New Yield (SARUNY) from
22 the desalters and reoperation from both the calibration and
23 planning periods. SARUNY means the same thing as that term
24 *Desalter Induced Recharge* as used in the 2015 Safe Yield
25 Reset Agreement." This definition is repeated in section 7.3.7.

26 (e) The Wildermuth declaration filed March 10, 2017, with the
27 Chino Basin Watermaster Response to February 22, 2017 Order
28 section 7.3.7 which states:

1 (i) "The net Santa Ana River recharge in the fiscal year spending
2 July 1999 through June 2000 [one year] is the baseline from
3 which to measure SARUNY, which was estimated to be
4 -2,153 acre-ft/yr, indicating that the Chino Basin discharged
5 to the Santa Ana River more water than was recharged by the
6 River into the Basin. . . . Table 7-10 compares Chino Desalter
7 production and SARUNY over the period of July 2000
8 through July 2030. . . . The effect of 's the Chino Desalters
9 and reoperation becomes clear in 2005 when SARUNY
10 reaches about 50 percent of CDA production. The New Yield
11 results from the implementation of the Chino Desalters is
12 consistent with the planning estimates that were assumed
13 during the development of the Peace Agreements.

14 (f) Table 7-10 shows that starting in 2017, the ratio of new yield to
15 CDA production is about an average of 45 percent, meaning that
16 New Yield Desalter-Induced Recharge those years is about 45%
17 of the Desalter production.

18 (g) From these facts the court concludes that the Wildermuth
19 Safe Yield reset/recalculation has taken into account the
20 Desalter-Induced Recharge and production, so there is no need
21 to reduce the Safe Yield two 115,000 AFY as argued by the
22 Responding AP Members.

23 (h) The Peace Agreement offsets for new yield production
24 attributable to the Desalters are an accounting requirement
25 process, not a feature of determination of Safe Yield.

26 (i) The court also concludes that the reset/recalculation has
27 included the contractual features of the Peace Agreements, and
28 one of those features is that Safe Yield not be recalculated to

1 incorporate New Yield attributable to the Desalters. Wildermuth
2 has considered this feature.

3 (j) Again, therefore the safe yield of 135,000 AFY does not include
4 New Yield attributable to the Desalters.

5 3. The court still concludes for the term of Peace I (*i.e.*, until 2030),
6 Safe Yield not be recalculated in a manner that incorporates New Yield
7 attributable to the Desalters into the determination of Safe Yield.

8 a) The 20,000 AFY of Desalter-Induced Recharge is not included with
9 the definition of Safe Yield for the term of the Peace Agreements.
10 To rule otherwise would contradict the Peace Agreements.

11 b) The court analogizes its ruling to the controlled overdraft allowed to
12 achieve hydraulic control. That aspect of production/pumping was
13 not allocated to Safe Yield. The court orders that Desalter-Induced
14 Recharge New Yield remain unallocated to Safe Yield.

15 c) The court does not address the City of Chino's briefing regarding the
16 Safe Yield Implementation Replenishment Accounting Illustration
17 (Per Peace II agreement, Section 6.2 (PIIA, 6.2) and June 11, 2015
18 Key Principles) Watermaster motion filed October 23, 2015, Exhibit
19 "F" Attachment 2 for the following reasons:

20 I) Chino asks if the Column G – Desalter-Induced Recharge
21 replenishment water was coming from Desalter production.

22 II) Footnote 4 for this Column G states that "the desalter-induced
23 recharge projection in the table is now shown at 50% of the annual
24 total desalter production for years 2015 through 2030. Desalter -
25 induced recharge from 2001 to 2014 (187,000 acre-feet) will be
26 deemed Safe Yield and not available to offset Desalter production."

27 III) As part of its order that SYRA cannot be implemented, the
28 court rejects the Safe Yield Reset Implementation Desalter

1 **Replenishment Accounting Illustration.**

2 **IV) The City of Ontario has argued that Desalter Induced**
3 **Recharge to offset Desalter production should be “backfilled” from**
4 **Safe Yield. The court rejects this argument for the following**
5 **reasons:**

- 6 **(a) This is merely a characterization of what SYRA proposed to**
7 **do, and, for the reasons already stated, the court has rejected**
8 **SYRA except for the Safe Yield recalculation.**
- 9 **(b) The Judgment, the Peace Agreements, and the CAMA’s do**
10 **not support this accounting, again for the reasons already stated.**
- 11 **(c) Again, for the reasons stated herein, the court rejects that**
12 **Ontario’s argument that a Safe Yield recalculation to 135,000**
13 **AFY is not a “Safe Yield recalculation.” The argument has no**
14 **merit and is completely unpersuasive.**
- 15 **(d) The court finds that the definitions of Safe Yield and New**
16 **Yield are sufficiently set forth in the Judgment, Peace I and**
17 **Peace II.**
- 18 **(i) Watermaster does not point to any specific conflict between**
19 **the court’s current/instant order and the court’s order**
20 **implementing Watermaster Resolution 07-05, and the court**
21 **finds none.**
- 22 **(ii) The court reaffirms the definitions of Peace II which**
23 **have been in effect for 10 years, and of course the definitions**
24 **of the Judgement and Peace I.**
- 25 **(iii) The court finds no basis for Watermaster's attempt to**
26 **define Desalter-Induced Recharge into directly, indirectly,**
27 **Safe Yield or by a “sequester.”**
- 28 **(iv) In reaffirming the definitions of the Judgment, Peace I,**

1 and Peace II, the court of course also notes the definition of
2 “Safe Yield” in the Judgment ¶I.1(x) inclusive of
3 “undesirable result,” and the “Material Physical Injury” of
4 Peace I ¶I.1 (y).

5 V) The court finds and orders that Desalter production is not Safe Yield
6 and Desalter production is to be offset only as provided in Peace II.
7

8 **IX. Additional Bases for Rulings**

9 A. The court has refused to implement the sections of SYRA identified above for
10 the reasons set forth above. In the court’s view, those reasons are sufficient under
11 the law. Therefore, the court has not addressed other objections raised by the
12 parties, such as those of the City of Chino, that Watermaster has failed to prove a
13 change in circumstances, that Watermaster has improperly advocated for certain
14 parties, that the parties are collaterally estopped from re-litigating the parties’ rights,
15 that the parties are equitably estopped from reducing their replenishment obligations,
16 that SYRA fails to comply with CEQA, that SYRA provisions resulted in an unlawful
17 taking of Chino’s property.
18

19 B. Although the court understands the necessity of accounting for Desalter
20 induced recharge from the Santa Ana River, the court does not find a basis in the
21 law, the Judgment, or the Court Approved Management Agreements for
22 simultaneously reducing Safe Yield and adding unproduced/unpumped Ag Pool
23 water to account for Desalter induced recharge.

24 1. ~~The court encourages the parties and Watermaster to continue efforts~~
25 ~~to come to an agreement on the allocation of Desalter induced recharge.~~

26 2. ~~Withdrawal of water from storage is already subject to limitations that it~~
27 ~~be done without Material Physical Injury. (Watermaster Rules and Regulations, ¶8.1.)~~

28 1. Watermaster argues that the court should approve SYRA because it is

1 only a confirmation of “interpretation of the manner in which Watermaster should
2 comply with the provisions of the Court Approved Management Agreements.
3 (Watermaster’s Reply to Oppositions to Motion regarding 2015 Safe Yield Reset
4 Agreement, Amendment of Restated Judgment, Paragraph 6, page 10, line 26.)

5 a) The court does not accept this argument. The court interprets SYRA as
6 an attempt for a major qualitative revision of the Court Approved
7 Management Agreements, but the Court Approved Management
8 Agreements do not support the SYRA revision for the reasons stated
9 herein.

10 2. The court finds that the rulings herein will not cause material physical
11 injury or an undesirable result.

12 a) Although many parties have approved SYRA, parties’ approval or
13 disapproval of SYRA is not a legal basis for the court to enforce SYRA.
14 The court must look to the previous agreements of the parties, the
15 previous court orders, the Court Approved Management Agreements,
16 the Judgement, and the California Constitution.

17
18 Date:

19 _____

20
21 _____
22 Judge Stanford E. Reichert
23 San Bernardino County Superior Court
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7 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF SAN BERNARDINO
9

10 CHINO BASIN MUNICIPAL WATER)
11 DISTRICT,)
12 Plaintiff,)
13 vs.)
14 CITY OF CHINO, et al.,)
15 Defendants)

Case No. RCV 51010

[Additional/Final Revised Proposed]

ORDERS for Watermaster's Motion
Regarding 2015 Safe Yield Reset
Agreement, Amendment of Restated
Judgement, Paragraph 6

Date: April 28, 2017
Time: 1:30 PM
Department: S35

17
18 Watermaster's Motion Regarding 2015 Safe Yield Reset Agreement,
19 Amendment of Restated Judgment, Paragraph 6, joined by The Chino Basin
20 Overlying (Agricultural) Pool Committee and The Inland Empire Utilities Agency
21 ("IEUA") and opposed by Jurupa Community Services District ("JCSD") and the
22 City of Chino ("Chino") is granted in part and denied in part for the reasons set forth
23 herein. The court grants the motion with respect to amending the restated judgment
24 to reset the Safe Yield of the basin to 135,000 AFY.

25 However, the court denies all other parts of SYRA including the motions to
26 amend the schedule for access to Re-Operation Water and. The court denies the
27 motion to institute Safe Storage Management Measures. The court makes additional
28 orders regarding priorities and with respect to access for Re-Operation Desalter

1 water as set forth herein.

2 Additionally, the court orders that the Safe Yield reset to 135,000 AFY is an
3 event that requires a “recalculation” with the definition of Judgment, Exhibit “H”
4 ¶10.

6 **REQUEST FOR JUDICIAL NOTICE**

7 The court grants requests for judicial notice of JCSD as follows:

- 8 1. Restated Judgment (“Judgment”) in case number RCV 51010.
- 9 2. Implementation Plan Optimum Basin Management Program for the Chino Basin
10 (“OBMP Implementation Plan”).
- 11 3. Chino Basin Watermaster Rules and Regulations (“Rules and Regulations”).
- 12 4. 2015 Safe Yield Reset Agreement (“SYRA”).
- 13 5. Order Concerning Motion for Approval of Peace II Documents (“2007 Order”)
14 in case number RCV 51010.
- 15 6. 2000 Peace Agreement Chino Basin (“Peace I Agreement” or “Peace I”).
- 16 7. Watermaster Compliance with Condition Subsequent Number Eight: Proposed
17 Order Submitted Concurrently.
- 18 8. Peace II Agreement: party support for Watermaster’s OBMP Implementation
19 Plan, Settlement and Release of Claims Regarding Future Desalters (“Peace II
20 Agreement” or “Peace II”).

22 **JOINDERS AND FILINGS**

23 A. Watermaster's motion regarding 2015 Safe Yield Reset Agreement,
24 amendment of restated Judgment, Paragraph 6.

25 1. City of Chino’s objections to declaration of Kavounas submitted with
26 Watermaster’s Motion regarding 2015 Safe Yield Reset Agreement, Amendment of
27 Restated Judgment, Paragraph 6

28 Rulings in separate document.

1 2. City of Chino's objections to declaration of Wildermuth submitted with
2 Watermaster's Motion regarding 2015 Safe Yield Reset Agreement, Amendment of
3 Restated Judgment, Paragraph 6

4 Rulings in separate document.

5 B. The following parties joined in Watermaster's motion:

- 6 1. Overlying (Agricultural) Pool
7 2. Inland Empire Utilities Agency

8 C. Oppositions to Watermaster's motion

- 9 1. City of Chino with supporting documents
10 a) Declaration of Robert Shibatani, physical hydrologist
11 b) Declaration of David Crosley, civil engineer, water and environmental
12 manager for City of Chino
13 2. Jurupa Community Services District (JCSD) with supporting documents
14 a) Request for judicial notice identified above
15 b) Declaration of Todd Corbin, general manager of JCSD
16 c) Declaration of Robert Donlan, attorney

17 D. Watermaster's reply to oppositions to motion regarding 2015 Safe Yield Reset
18 Agreement, amendment of Restate Judgement, Paragraph 6

- 19 1. Supplemental declaration of Kavounas
20 a) City of Chino's objections Kavounas supplemental declaration in
21 support of Watermaster's reply the Chino opposition
22 b) Watermaster's Response to City of Chino's objections to supplemental
23 declaration of Peter Kavounas in support of Watermaster's reply to
24 Chino's Opposition to Motion regarding 2015 Safe Yield Reset
25 Agreement, Amendment of Restated Judgment, Paragraph 6

26 I) Motion to strike denied. The court finds that the declaration did not
27 raise new issues.

28 II) All objections overruled.

- 1 2. Supplemental declaration of Wildermuth
- 2 a) City of Chino's objections to Wildermuth supplemental declaration in
- 3 support of Watermaster's reply to Chino opposition.
- 4 b) Watermaster's Response to City of Chino's objections to supplemental
- 5 declaration of Mark Wildermuth in support of Watermaster's reply to
- 6 Chino's Opposition to Motion regarding 2015 Safe Yield Reset
- 7 Agreement, Amendment of Restated Judgment, Paragraph 6.
- 8 I) Motion to strike denied. The court finds that the declaration did not
- 9 raise new issues.
- 10 II) All objections overruled.
- 11 3. Declaration of Danielle Maurizio, assistant general manager of Chino
- 12 Basin
- 13 a) City of Chino's objections to supplemental declaration of Danielle D.
- 14 Maurizio in support of Watermaster's reply to chino opposition
- 15 b) Watermaster's Response to City of Chino's objections to supplemental
- 16 declaration of Danielle E. Maurizio in support of Watermaster's reply to
- 17 Chino's Opposition to Motion regarding 2015 Safe Yield Reset
- 18 Agreement, Amendment of Restated Judgment, Paragraph 6
- 19 I) Motion to strike denied. The court finds that the declaration did not
- 20 raise new issues.
- 21 II) All objections overruled.
- 22 4. Joinders in Watermaster's reply to oppositions
- 23 a) Overlying (Agricultural) Pool
- 24 b) City of Pomona and (in one pleading document)
- 25 I) City of Upland
- 26 II) Monte Vista Water District
- 27 III) Cucamonga Valley Water District
- 28 IV) Fontana Union Water Company

1 E. In an order Dated March 22, 2016, the court served the parties with questions
2 and a request for further briefing in response to the questions. The responses were
3 as follows:

4 1. Jurupa Community Services District response to Judge Reichert's
5 request for clarification filed April 1, 2016.

6 2. City of Chino's responses to Judge Reichert's questions, filed April 1,
7 2016.

8 3. Watermaster's response to order for additional briefing filed April 1,
9 2016.

10 a) Chino's reply to Watermaster's response to order for additional briefing,
11 filed April 11, 2016.

12 b) Jurupa Community Services District's additional response to Judge
13 Reichert's request for clarification, filed April 11, 2016

14 4. Watermaster's further response to order for additional briefing, filed
15 April 11, 2016

16 F. At the hearing on February 22, 2017, the court ordered that the parties may
17 file questions regarding the court's tentative draft order, and the court set a briefing
18 schedule. In response, the court received the following:

19 1. Filed March 10, 2017-Chino Basin Watermaster response to February
20 22, 2017 order

21 2. Filed March 10, 2017-City of Chino's response to issue in section II of
22 Judge Reichert's revised proposed order re SYRA

23 3. Filed March 10, 2017-Responding AP members (Monte Vista Water
24 District, Cucamonga Valley Water District, City of Pomona, and City of Upland)
25 filed March 10, 2017

26 4. Filed March 24, 2017-Chino Basin Watermaster further response to
27 February 22, 2017 order

28 5. Filed March 24, 2017-City of Chino's response to court authorized

1 further briefing re revised tentative order re Watermaster's motion re 2015 Safe Yield
2 reset Agreement

3 6. Filed March 24, 2017-City of Chino's response to Chino Basin
4 Watermaster's response to February 22, 2017 order

5 7. Filed March 24, 2017-City of Ontario's response regarding issue for
6 further briefing

7 8. Filed March 24, 2017-Jurupa Community Services District opposition
8 to Monte Vista Water District's response to court's February 22, 2017 order re SYRA
9 and response to questions [joins in the opposition filed by the City of Ontario]

10 9. Filed March 24, 2017-Responding AP members response to both
11 Watermaster and City of Chino's further briefing re revised tentative order re
12 Watermaster's motion re 2015 Safe Yield Reset Agreement

13 10. Filed April 4, 2017-errata to City of Chino's response to Chino Basin
14 Watermaster's response to February 22, 2017 order

15 11. Filed April 7, 2017-Chino Basin Watermaster further response to
16 February 22, 2017 order

17 12. Filed April 7, 2017-City of Chino's reply to responses of Watermaster,
18 4AP Members, Ontario and Jurupa

19 13. Filed April 7, 2017-Jurupa Community Services District's limited reply
20 to City of Chino's response to Chino Basin Watermaster's response to February 22,
21 2017 order, dated March 24, 2017

22 14. Filed April 7, 2017-Responding AP Members reply to opposition briefs
23 re revised tentative order re Watermaster's motion re 2015 Safe Yield Reset
24 Agreement

25 15. Filed April 27, 2017, request by Chino basin desalter authority member
26 agencies regarding desalter pumping

1 **SEPTEMBER 23, 2016, HEARING AND ADDITIONAL BRIEFING**

2 After extensive briefing and consideration, on September 23, 2016, the court
3 held a hearing on the 2015 SYRA and related motions. Before the hearing, the court
4 had issued a lengthy (over 60 pages) proposed order. At the hearing on September
5 23, there was extensive oral argument, and the court concluded that some aspects of
6 the court's proposed order were confusing or erroneous. Therefore, the ordered that
7 there be even further briefing, and the court ordered additional briefing through
8 questions by the parties about the proposed order. In its order entitled "Revised
9 Proposed Order Re SYRA in Response to Questions: Issues for Further Briefing,"
10 and the current order, the court addressed the parties' questions.

11
12
13 **I. INTRODUCTION, DEFINITIONS, BACKGROUND**

14 A. The 1978 judgment in *Chino Basin Municipal Water District v. City of Chino* (San
15 Bernardino Superior Court Case No. 51010) set the Safe Yield of the Chino Basin at
16 140,000 acre-feet per year (AFY), but reserved continuing jurisdiction to the court to
17 amend the Judgment, inter alia, to redetermine the Safe Yield after the first 10 years
18 of operation of the Physical Solution established under the Judgment. The Physical
19 Solution identified three groups of parties (Pools) with water interests in the Chino
20 Basin, and set forth their allocations as follows:

21

| Pool | Allocation | Acre-feet Yearly Allocation |
|--|--|-----------------------------|
| 22 23 24 25 26 27 28 Overlying (Agricultural) Pool* | 414,000 acre-feet in any five (5) consecutive years [note: 414,000 ÷ 5 = 82,800 per year] | 82,800 |
| Overlying (Non-agricultural) | 7,366 acre-feet | 7,366 |

| | | | |
|---|---------------|-------------------------|---------|
| 1 | Pool** | | |
| 2 | Appropriative | 49,834 acre-feet | 49,834 |
| 3 | Pool*** | | |
| 4 | | Yearly total allocation | 140,000 |

5 *The members of this pool included dairy farms.

6 **The members of this pool include businesses which use water in their production
7 processes.

8 ***The members of this pool include cities and water companies. They
9 “appropriate” the water by pumping and selling it.

10 Over the course of the Court-Approved Management Agreements (set forth in
11 the next section), the court allowed up to 600,000 AF of water to be
12 produced/pumped out of the Chino Basin without any replenishment obligation.

13 “While the parties are not limited in the quantities of water they may produce, the
14 Judgment requires that beyond the permitted Controlled Overdraft comprising an
15 initial 200,000 AF and an additional 400,000 AF of Re-operation water (Restated
16 Judgment, Exhibit “I”, ¶¶ 2.(b), 3.(a)), there must be a bucket for bucket
17 replenishment [and associated cost to the producer/pumper] to offset production in
18 excess of the Basin’s Safe Yield. (Restated Judgment, ¶¶ 13, 42).” (Watermaster’s
19 Response to Questions for Clarification in Final Orders for Watermaster's Motion
20 Regarding 2015 Safe Yield Reset Agreement, Amendment of Restated Judgment,
21 Paragraph 6, page 2, line 23 to page 3, line 4, filed October 28, 2016.)

22 The court notes that this total “controlled overdraft” i.e., pumping without
23 replenishment cost, (aka “Re-Operation Water”) of 600,000 AF has just about been
24 exhausted.

25 This motion is the first time the court has redetermined the Safe Yield since
26 the Judgment was entered in 1978.

27
28 B. Since the entry of the judgment, the court has previously approved agreements to

1 implement the Physical Solution (“Court Approved Management Agreements” aka
2 “CAMA”). There is no dispute that the court has the authority and duty to
3 independently review the evidence de novo and determine whether proposals by
4 Watermaster or any party comply with the Judgment and the Court Approved
5 Management Agreements. (Restated Judgment ¶31(d).) The Court Approved
6 Management Agreements are:

7 1. The Chino Basin Peace Agreement (Peace I Agreement), dated June 29,
8 2000, as subsequently amended in September 2004 and December 2007.

9 a. In 2000 the parties executed Peace Agreement Chino Basin (Peace I
10 Agreement) and agreed to Watermaster’s adoption of the Optimum
11 Basin Management Plan (OBMP) Implementation Plan. At about the
12 same time, the court ordered Watermaster to proceed in a manner
13 consistent with Peace I and the OBMP, including Program Element 8
14 (Develop and Implement Groundwater Storage Management Program)
15 and Program Element 9 (Develop and Implement Storage and
16 Recovery Programs). The implementation plan acknowledged the need
17 to obtain better production data through the metering of non-exempt
18 production within the Basin. Program Elements 8 and 9 provided for
19 Watermaster to redetermine and reset the Basin’s Safe Yield in the year
20 2010/11. The basis of the redetermination and reset would be
21 production data derived from the collection of additional data regarding
22 the parties’ production (i.e., parties who pumped water out of the Basin)
23 within the basin during the 10-year period 2000/01 through 2009/10.
24 The study for redetermination and reset was not completed until 2015,
25 and the motion regarding determination and reset was not filed until
26 October 2015.

27 b. The Peace I Agreement introduced the installation of Desalters in the
28 southwest portion of the Basin. The Desalters pump ground water

1 from the aquifer and supply that water to water companies and other
2 users. By pumping water out of the aquifer, the Desalters also lowered
3 the ground water table to help obtain Hydrologic Control, i.e.,
4 preventing Chino Basin ground water from reaching the Santa Ana
5 River south of the Basin. The Santa Ana River is a major source of
6 water for Orange County, and water impurities and contaminants, some
7 of which came from the Chino Basin dairy farms (“salts”) were in the
8 groundwater flowing from the Basin into the Santa Ana River. The
9 Desalter capacity has now expanded to 40 MGD (40 million gallons per
10 day) as provided in the OBMP Implementation Plan to protect against a
11 decline in Safe Yield and for water quality benefits, but the court
12 reserved the question of how “Future Desalter” capacity would be
13 addressed. The Chino Basin Desalter Authority (CDA), which includes
14 the City of Chino, participated in the construction of the Desalters
15 which represented a substantial engineering and financial undertaking.
16 These Desalters were completed and fully operational in 2006.

17 2. The Peace II Measures (court approved on December 21, 2007).

18 a. In 2007, the parties entered into the Peace II Agreement. The objective
19 was to increase the Desalter capacity to 40 MGD to achieve the OBMP
20 Implementation Plan objectives. In order to do this, the parties
21 designed and financed an additional 10 million gallons per day (MGD)
22 of expanded Desalter capacity. The expansion of the Desalters to the
23 full plant capacity will be completed in 2017. With the completion of
24 this construction, Hydraulic Control will be achieved. Hydraulic
25 Control now means only a de minimus amount of groundwater will
26 flow from the Chino Basin south into the Santa Ana River. In fact, the
27 Desalters now have lowered the water table in the south end of the
28 Basin so that ground water is now flowing from the Santa Ana River

1 north into the Chino Basin. ~~This is called Re-Operation water.~~

2 3. The Optimum Basin Management Plan (OBMP) Implementation Plan
3 dated June 29, 2000, was supplemented in December 2007.

4 4. The Recharge Master Plan, dated 1998, was updated in 2010 and
5 amended in 2013.

6 5. The Watermaster Rules and Regulations dated June 2000, as amended.

7 6. The October 8, 2010 Order Approving Watermaster's Compliance with
8 Condition Subsequent Number Eight and Approving Procedures to be used to
9 Allocate Surplus Agricultural Pool Water in the Event of a Decline in Safe Yield.

10 7. Watermaster Resolution 2010-04 ("Resolution of the Chino Basin
11 Watermaster regarding Implementation of the Peace II Agreement and the Phase III
12 Desalter Expansion in Accordance with the December 21, 2007 Order of the San
13 Bernardino Superior Court").

14
15 C. Additional background for motion

16 1. At the September 24, 2015 Watermaster Board Meeting, the board
17 adopted Resolution 2015-06: Resolution of the Chino Basin Watermaster regarding
18 the 2015 Safe Yield Reset Agreement (SYRA).

19 2. Through a Facilitation and Non-Disclosure Agreement (FANDA),
20 Watermaster attempted to obtain agreement as to all issues regarding Safe Yield
21 redetermination and reset allocation. Those issues included not only a reset of the
22 Safe Yield from 140,000 acre-feet per year to 135,000 acre-feet per year, but also
23 Watermaster's accounting for reallocations related to Court Approved Management
24 Agreements, and a method of allocations for water storage called the Safe Storage
25 Management Agreements.

26 a) The FANDA process took place starting in November 2014, and
27 through at least 30 meetings, by May 27, 2015, all but one of the then-
28 active parties to the FANDA reached a non-binding agreement among

1 their negotiating representatives on certain key principles (apparently
2 also called the “term sheet”) embodied in the Safe Yield Summary of
3 Non-Binding Key Principles Derived from the Facilitated Process.

- 4 b) The parties continued to negotiate, with a goal of reducing the Key
5 Principles into a binding instrument for execution by September 1,
6 2015. That agreement is identified as the 2015 Safe Yield Reset
7 Agreement (SYRA). The Appropriative Pool, the Overlying
8 (Agricultural) Pool, and the Three Valleys Municipal Water District
9 approved the 22-page agreement, as did many other parties. The City
10 of Chino refused to sign the agreement.
- 11 c) On September 24, 2015, the board at its regular meeting adopted
12 resolution 2015-06, and previously – on September 17, 2015 – the
13 advisory committee approved resolution 2015-06: “Resolution of Chino
14 Basin Watermaster regarding 2015 Safe Yield Reset Agreement
15 (SYRA).”
- 16 d) Watermaster’s instant motion asks the court to address the issues
17 covered in the SYRA as follows:
- 18 I) The reset of the Basin Safe Yield from 140,000 acre-fee per year (AFY)
19 to 135,000 AFY pursuant to the Restated Judgment, the OBMP
20 Implementation Plan, and Watermaster’s Rules and Regulations;
- 21 II) The manner in which Watermaster should account for various
22 components of the recharge to the Basin implementing the Court-
23 Approved Management Agreements; and
- 24 III) Establishment of Safe Storage Management Measures (SSMM)
25 intended to ensure that withdrawals of groundwater from authorized
26 storage accounts within the Basin are safe, sustainable, and will not
27 cause Material Physical Injury or undesirable results.
- 28

1 D. SUMMARY RULINGS:

2 In its motion, Watermaster requests an order acknowledging the 2015 Safe
3 Yield Reset Agreement and ordering Watermaster to proceed in accordance with its
4 terms with respect to amending the restated judgment to reset the Safe Yield of the
5 Basin from 135,000 AFY to 135,000 AFY and amending the schedule for access to
6 Re-Operation water. For the reasons set forth herein, the court grants the motion
7 with respect to amending the restated judgment to reset the Safe Yield of the basin to
8 135,000 AFY. However, the court denies the rest of the motions including the motions
9 to amend the schedule for access to Re-operation water and the motion to institute
10 Safe Storage Management Measures. The court makes additional orders with respect
11 to Desalter water as set forth herein.

12
13 **II. Severability of SYRA**

14 Watermaster has questioned whether the court can sever SYRA and enforce
15 certain sections and not others. For the following reasons, except for the Safe Yield
16 reset itself, the court has concluded that it cannot enforce some of sections and not
17 others:

18 A. Watermaster itself has argued that SYRA is an integrated document which
19 cannot be divided.

20 1. Watermaster's "Response to Questions for Clarification, etc." filed
21 October 28, 2016, states: "the SYRA is the product of the Facilitation and Non-
22 Disclosure Agreement (FANDA) process, during which the parties to that agreement
23 comprehensively settled and compromised their disagreements, so as to enable
24 Watermaster to implement the CAMA's through and following the reset of Safe
25 Yield."

26 a) The court does not find a basis for this characterization. *Most* of the
27 parties settled and compromised their disagreements, but not all,
28 notably the city of Chino and Jurupa Community Services District.

1 2. Watermaster further argues that approving “some, but not all, of
2 SYRA’s provisions can materially advantage one party over another, in that the full
3 benefit of the parties intended settlement and compromise is not achieved, as one or
4 more parties may be denied the consideration for which it bargained.”

5 a) For the reasons set forth below, the court refuses to adopt SYRA in
6 whole. Following Watermaster’s own all-or-nothing argument, the
7 court must conclude that not only is there no legal basis to enforce part
8 of SYRA, but also that it is fundamentally unfair to the parties to
9 enforce portions of SYRA for which the parties did not bargain.

10 3. However, the court concludes there is a qualitative difference between
11 the safe yield reset and the balance of SYRA.

12 a) The request to reduce the Safe Yield to 135,000 AFY is a legal
13 determination for the court.

14 b) The request to reduce Safe Yield is based on the Reset Technical
15 Memorandum report and model. That memorandum has nothing to do
16 with interactions, bargaining, or allocations among the parties.

17 I) There ample technical and scientific support for the reset in the
18 Technical Memorandum and the 2013 Chino Basin Groundwater
19 Model Update and Recalculation of Safe Yield Pursant to the Peace
20 Agreement prepared by Wildermuth Environmental, Inc. dated
21 October 2015.

22 c) The request to reduce Safe Yield is in response to the court order itself
23 to evaluate the yield every 10 years

24 I) Although the study should have been done in 2010, at least it was
25 completed in 2015.

26 II) None of the other aspects of SYRA were pursuant to a court order.

27 III) The safe yield reset is a legal determination for the court. There
28 is no “bargained-for exchange” for the court to consider.

1 d) Therefore for these reasons and those set forth in section III below ~~the~~
2 the court adopts the following provisions of Article 4-SAFE YIELD
3 RESET TO 135,000 AFY of the SYRA AND ORDERS AS
4 FOLLOWS:

5 4.1 Safe Yield Reset. Consistent with the prior orders of the Court pursuant to its
6 continuing jurisdiction, effective July 1, 2010 and continuing until June 30, 2020, the
7 Safe Yield for the Basin is reset at 135,000 AFY. For all purposes arising under the
8 Judgment, the Peace Agreements and the OBMP Implementation Plan, the Safe
9 Yield shall be 135,000 AFY, without exception, unless and until Safe Yield is reset in
10 accordance with the procedures set forth in this order, and determined by the Court
11 pursuant to its retained continuing jurisdiction.

12
13 4.2 Scheduled Reset. Watermaster will initiate a process to evaluate and reset the
14 Safe Yield by July 1, 2020 as further provided in this order. Subject to the provisions
15 of Paragraph 4.3 below, the Safe Yield, as it is reset effective July 1, 2020 will
16 continue until June 30, 2030. Watermaster will initiate the reset process no later than
17 January 1, 2019, in order to ensure that the Safe Yield, as reset, may be approved by
18 the court no later than June 30, 2020. Consistent with the provisions of the OBMP
19 Implementation Plan, thereafter Watermaster will conduct a Safe Yield evaluation
20 and reset process no less frequently than every ten years. This Paragraph is deemed
21 to satisfy Watermaster's obligation, under Paragraph 3.(b) of Exhibit "I" to the
22 Restated Judgment, to provide notice of a potential change in Operating Safe Yield.

23
24 4.3 Interim Correction. In addition to the scheduled reset set forth in Paragraph
25 4.2 above, the Safe Yield may be reset in the event that, with the recommendation
26 and advice of the Pools and Advisory Committee and in the exercise of prudent
27 management discretion described in Paragraph 4.5(c), below, Watermaster
28 recommends to the court that the Safe Yield must be changed by an amount greater

1 (more or less) than 2.5% of the then-effective Safe Yield.
2

3 4.4 Safe Yield Reset Methodology. The Safe Yield has been reset effective July 1,
4 2010 and shall be subsequently evaluated pursuant to the methodology set forth in
5 the Reset Technical Memorandum. The reset will rely upon long-term hydrology and
6 will include data from 1921 to the date of the reset evaluation. The long-term
7 hydrology will be continuously expanded to account for new data from each year,
8 through July 2030, as it becomes available. This methodology will thereby account
9 for short-term climatic variations, wet and dry. Based on the best information
10 practicably available to Watermaster, the Reset Technical Memorandum sets forth a
11 prudent and reasonable professional methodology to evaluate the then prevailing
12 Safe Yield in a manner consistent with the Judgment, the Peace Agreements, and the
13 OBMP Implementation Plan. In furtherance of the goal of maximizing the
14 beneficial use of the waters of the Chino Basin, Watermaster, with the
15 recommendation and advice of the Pools and Advisory Committee, may supplement
16 the Reset Technical Memorandum's methodology to incorporate future advances in
17 best management practices and hydrologic science as they evolve over the term of
18 this order.
19

20 4.5 Annual Data Collection and Evaluation. In support of its obligations to
21 undertake the reset in accordance with the Reset Technical Memorandum and this
22 order, Watermaster shall annually undertake the following actions:

23 (a) Ensure that, unless a Party to the Judgment is excluded from reporting,
24 all production by all Parties to the Judgment is metered, reported, and reflected in
25 Watermaster's approved Assessment Packages;

26 (b) Collect data concerning cultural conditions annually with cultural
27 conditions including, but not limited to, land use, water use practices, production,
28 and facilities for the production, generation, storage, recharge, treatment, or

1 transmission of water;

2 (c) Evaluate the potential need for prudent management discretion to avoid
3 or mitigate undesirable results including, but not limited to, subsidence, water quality
4 degradation, and unreasonable pump lifts. Where the evaluation of available data
5 suggests that there has been or will be a material change from existing and projected
6 conditions or threatened undesirable results, then a more significant evaluation,
7 including modeling, as described in the Reset Technical Memorandum, will be
8 undertaken; and,

9 (d) As part of its regular budgeting process, develop a budget for the
10 annual data collection, data evaluation, and any scheduled modeling efforts, including
11 the methodology for the allocation of expenses among the Parties to the Judgment.
12 Such budget development shall be consistent with section 5.4(a) of the Peace
13 Agreement.

14
15 4.6 Modeling. Watermaster shall cause the Basin Model to be updated and a
16 model evaluation of Safe Yield, in a manner consistent with the Reset Technical
17 Memorandum, to be initiated no later than January 1, 2024, in order to ensure that
18 the same may be completed by June 30, 2025.

19
20 4.7 Peer Review. The Pools shall be provided with reasonable opportunity, no
21 less frequently than annually, for peer review of the collection of data and the
22 application of the data collected in regard to the activities described in Paragraphs
23 4.4, 4.5, and 4.6 above.

24
25 4.8 No Retroactive Accounting. Notwithstanding that the initial Safe Yield reset,
26 described in Paragraph 4.1 above, shall be effective as of July 1, 2010, Watermaster
27 will not, in any manner, including through the approval of its Assessment Packages,
28 seek to change prior accounting of the prior allocation of Safe Yield and Operating

1 Safe Yield among the Parties to the Judgment for production years prior to July 1,
2 2014.

3
4
5 **III. THE COURT FURTHER ORDERS AS FOLLOWS:**

6 A. The court amends the restated judgment ¶6 and sets the safe yield to 135,000
7 AFY for the following reasons:

8 1. The court accepts the findings and conclusions of Wildermuth for the
9 following reasons. Those conclusions are set forth in the reset Technical
10 Memorandum.

11 a) Wildermuth has been the authoritative resource for the parties and the
12 court during the pendency of the case for the last 15 years.

13 b) Wildermuth has performed a detailed analysis with substantiated facts
14 and findings in the reset technical memorandum, the supplemental
15 declaration of Mark Wildermuth in support of Watermaster's reply to
16 oppositions to the motion regarding 2015 Safe Yield Reset Agreement,
17 and the memo to restated judgment, paragraph 6 aka Wildermuth
18 supplemental declaration.

19 c) The court accepts the net recharge approach and calculations set forth
20 in the Wildermuth report.

21 d) The Wildermuth report gives the most comprehensive analysis and
22 credible evaluation of the historic condition of the Basin.

23 e) The court does not accept the conclusions of Robert Shibatani for the
24 following reasons:

25 I) Shibatani recognizes that the net recharge calculation is a legitimate
26 approach to a determination of Safe Yield.

27 II) The Shibatani approach is unnecessarily quantitative. The Wildermuth
28 analysis allows for the definitions required for the analysis of the Chino

1 Basin, including cultural conditions and undesirable results.

2 III) Wildermuth has considered the effects of climate change of
3 Basin precipitation. The court accepts Wildermuth's conclusion that
4 there are not any better predictive modeling scenarios generally available
5 at this time accurately calibrated to the historical rainfall and are
6 therefore not reliable as a predictive tool.

7 2. The Restated Judgment's definition of Safe Yield includes the
8 consideration of the evolutionary land-use conditions the need to protect the Basin
9 against undesirable results.

10 3. No party has objected to the reduction in Safe Yield, except the city of
11 Chino. Chino's objections were discussed and rejected/overruled for the reasons set
12 forth in Joinders and Filings, Section A.2 above.

13 4. The reduction safe yield is consistent with the Court-Approved
14 Management Agreements.

15 5. The court finds that the provisions of SYRA set for in Section II above
16 set forth an approach to a determination of future Safe Yield determinations in a
17 manner consistent with the Court Approved Management Agreements.

18 a) The declaration of Peter Wildermuth and the supporting
19 documentation, analysis supports the court's conclusion.

20 b) Wildermuth declaration, paragraph 14, states his opinion that the Basin
21 protection measures to which the parties have agreed and the 2015 Safe
22 Yield Reset Agreement will ensure that the Basin is not harmed by
23 extraction of 135,000 AFY through fiscal 2020. However, again the
24 court emphasizes that its ruling is not based on the agreement of the
25 parties. The court's ruling is based upon the Restated Judgment, the
26 Court Approved Management Agreements, and its legal conclusions
27 supported by the technical analyses identified in the court's order.

28 I) Although the court concludes the Safe Storage Management Measures

1 are useful and advisable, the court concludes there is no specific factual
2 basis requiring the Safe Yield reset to include Safe Storage Management
3 Measures. Therefore the court concludes that even without the Safe
4 Storage Management Measures, reduction of Safe Yield to 135,000 AFY
5 will not harm the Basin.

6 II) The 2013 Chino Basin Groundwater Model Update and Recalculation
7 of Safe Yield Pursuant to the Peace Agreement is sufficiently
8 documented and the court finds the data reliable.

9 c) Wildermuth declaration, paragraph 15, states that the Basin protection
10 measures to which the parties have agreed and the 2015 Safe Yield
11 Reset Agreement, including the Safe Storage Management Measures,
12 will ensure that the Basin is not harmed by extractions of the 20,000 AF
13 that was allocated in the past 4 years and would have been allocated if
14 the Safe Yield have been reset to 135,000 AFY in 2011.

15 I) However, again Wildermuth does not specifically address the necessity
16 of the Safe Storage Measures with respect to complying with the Court
17 Approved Management Agreements. Therefore, the court again
18 concludes that even without the Safe Storage Management Measures,
19 reduction of Safe Yield to 135,000 AFY will not harm the Basin.

20 II) Again, the 2013 Chino Basin Groundwater Model Update and
21 Recalculation of Safe Yield Pursuant to the Peace Agreement is
22 sufficiently documented and the court finds the data reliable.

23 d) Therefore, the court concludes that the extraction of 135,000 AFY is
24 consistent with the Court Approved Management Agreements and does
25 not create any undesirable result or Material Physical Injury to the Basin.

26
27 B. The measures set forth in Article 4 are consistent with the Physical Solution
28 under the judgment and Article X, section 2 of the California Constitution.

1
2 C. Paragraph 6 of the Restated Judgment is hereby amended to read as follows:
3 “Safe Yield. The Safe Yield of the Basin is 135,000 acre feet per year.”

4 1. The effective date of this amendment of Paragraph 6 of the Restated
5 Judgement is July 1, 2010.
6

7
8 **IV. SAFE YIELD RESET AGREEMENT (SYRA): WATERMASTER**
9 **ALLOCATION HISTORY, EARLY TRANSFERS, AND THE**
10 **DESALTERS**

11 A. The 1978 Judgment as amended

12 1. The 1978 Judgment ¶44 made the following allocation of rights to Safe
13 Yield in the Chino Basin (“the physical solution”):

14

| Pool | Allocation |
|-----------------------------------|--|
| Overlying (Agricultural) Pool | 414,000 acre-feet in any 5 consecutive years (82,800 acre-feet per year)* ** |
| Overlying (Non-agricultural) Pool | 7366 acre-feet per year** |
| Appropriative Pool | 49,834 acre-feet per year |
| Total | 140,000 acre-feet per year |

15
16
17
18
19
20

21 *Note: $414,000 \div 5 = 82,800$. 82,800 acre-feet per year has been the basis of
22 calculations for the Appropriative Pool going forward from the judgment.

23 **Note: the rights of the members of the Overlying (Agricultural) Pool and
24 the Overlying (Non-Agricultural) Pool are fixed (Restated Judgment ¶8, ¶44, see also
25 Exhibits “C” and “D” to the Restated Judgment). **Therefore the effect of a**
26 **decline of the safe yield is borne entirely by the members of the Appropriative**
27 **Pool (Restated Judgment ¶9).**

28 2. The Judgment ¶1(x) defines Safe Yield as “the long-term average annual

1 quantity of groundwater (excluding replenishment or stored water but including
2 return flow to the basin from use of replenishment or stored water) which can be
3 produced [*i.e.*, pumped] from the basin under cultural conditions of the particular
4 year without causing an undesirable result.”

5 3. The judgment fixed the amount of water production (pumping) that
6 could be allocated to the Overlying (Agricultural) Pool and the Overlying (Non-
7 agricultural) Pool. However, the Appropriative Pool allocation could be changed.

8 a) The court concludes that the disputes in the oppositions concern
9 relationship between unproduced (*i.e.*, unpumped) Overlying
10 Agricultural Pool water (aka Ag Pool water) and the water available to
11 the Appropriative Pool.

12 4. Exhibit “T” to the judgment is the Engineering Appendix. It discusses
13 Hydraulic Control and Re-Operation, which are described in more detail below.
14 Section 3 defines Operating Safe Yield as consisting in any “year of the
15 Appropriative Pool’s share of Safe Yield of the Basin, plus any controlled overdraft
16 of the Basin which Watermaster may authorize.”

17 a) Section 3(b) states that “in no event shall Operating Safe Yield in any
18 year be less than the Appropriative Pool’s share of Safe Yield, nor shall
19 it exceed such share of Safe Yield by more than 10,000 acre feet. The
20 initial Operating Safe Yield is hereby set at 54,834 acre feet per year.”

21 I) The figure of 54,834 acre feet per year is the initial 1978 Judgment
22 allocation of 49,834 acre-feet per year plus 5,000 acre feet per year. The
23 additional 5,000 AFY comes from 200,000 acre-feet of overdraft (water
24 pumped without a replenishment obligation) allocated by the Judgment
25 to the Appropriative Pool. This overdraft total was later increased by
26 400,000 AF to a total of 600,000 AF. The overdraft will be exhausted
27 in 2016/2017. (Watermaster Motion Regarding 2015 Safe Yield Reset
28 Agreement, Amendment of Restated Judgement, Paragraph 6, page 3,

1 line 27.)

2 b) Operating Safe Yield has also come to mean water that the
3 Appropriative Pool could produce/pump without having to purchase
4 replenishment water. (Exhibit "H" ¶5.)

5 5. Exhibit "H" to the judgment described the Appropriative Pool Pooling
6 Plan, paragraph 10 described "Unallocated Safe Yield Water" as follows: "to the
7 extent that, in any 5 years, any portion of the share of Safe Yield allocated to the
8 Overlying (Agricultural) Pool is not produced, such water shall be available for
9 reallocation to members of the Appropriative Pool as follows:

10 (a) Priorities. Such allocation shall be made in the following sequence:

11 (1) to supplement, in the particular year, water available from Operating Safe
12 Yield to compensate for any reduction in the Safe Yield by reason of
13 recalculation thereof after the tenth year of operation hereunder. [This
14 Exhibit H ¶10(a)(1) priority is sometimes called 'unproduced Agricultural Pool
15 water' or 'unproduced Ag Pool water.' The current credited production
16 (pumping) for agricultural groundwater is about 33,600 AFY, but that includes
17 agricultural land irrigated with reclaimed water. The actual groundwater
18 production for agricultural purposes is about 22,000 AFY. (Jurupa Services
19 District's response to Judge Reichert's Request for Clarification, March 22,
20 2016, page 2, lines 8-10.)]

21 (2) pursuant to conversion claims as defined in Subparagraph (b) hereof.

22 (3) as a supplement to Operating Safe Yield, without regard to reductions in
23 Safe Yield."

24 6. In an order dated November 17, 1995, Conversion Claims were defined
25 in Exhibit "H" ¶10(b) [this is the Subparagraph (b) to which the preceding
26 paragraph--page 23, line 21--refers]. Peace I modified this definition in Exhibit "H"
27 ¶10(b) to state as follows:

28 (b) Conversion Claims. The following procedures may be utilized by any

1 appropriator:

2 1) Record of Unconverted Agricultural Acreage. Watermaster shall maintain
3 on an ongoing basis a record with appropriate related maps of all agricultural
4 acreage within the Chino Basin subject to being converted to appropriative
5 water use pursuant to the provisions of this paragraph. An initial
6 identification of such acreage as of June 30, 1995 is attached hereto as
7 Appendix 1.

8 (2) Record of Water Service Conversion. Any appropriator who undertakes
9 to permanently provide water service to lands subject to conversion may
10 report such intent to change water service to Watermaster. Watermaster
11 should thereupon verify such change in water service and shall maintain a
12 record and account for each appropriator of the total acreage involved.
13 Should, at any time, converted acreage return to water service from the
14 Overlying (Agricultural) Pool, Watermaster shall return such acreage to
15 unconverted status and correspondingly reduce or eliminate any allocation
16 accorded to the appropriator involved.

17 (3) Allocation of Safe Yield Rights

18 (i) For the term of the Peace Agreement in any year in which sufficient
19 unallocated Safe Yield from the Overlying (Agricultural) Pool is available for
20 such conversion claims, Watermaster shall allocate to each appropriator with
21 the conversion claim 2.0 acre-feet of unallocated Safe Yield water for each
22 converted acre for which conversion has been approved and recorded by
23 Watermaster.

24 (ii) In any year in which the unallocated Safe Yield water from the Overlying
25 (Agricultural) Pool is not sufficient to satisfy all outstanding conversion claims
26 pursuant to subparagraph (i) herein above, Watermaster shall establish
27 allocation percentages for each appropriator with conversion claims. The
28 percentages shall be based upon the ratio of the total of such converted

1 acreage approved and recorded for each appropriators's [sic] account in
2 comparison to the total of converted acreage approved and recorded for all
3 appropriators. Watermaster shall apply such allocation percentage for each
4 appropriator to the total unallocated Safe Yield water available for conversion
5 claims to derive the amount allocable to each appropriator.

6 7. CONCLUSION: With the 1995 amendments, the Judgment set a
7 prioritized list of claims upon unproduced Ag Pool water.

8 Ag Pool water--1995 Judgment amendment

9 82,800 AFY of the Ag Pool's water available to the Appropriative Pool with
10 Appropriative Pool claims prioritized as follows:

11 (1) to supplement, in the particular year, water available from Operating Safe
12 Yield to compensate for any reduction in the Safe Yield by reason of recalculation
13 thereof after the tenth year of operation as required by the Judgment;

14 (2) pursuant to conversion claims as defined in Subparagraph (b of Exhibit "H"
15 ¶10(b);

16 (3) as a supplement to Operating Safe Yield, without regard to reductions in Safe
17 Yield.

18 The court notes that there is currently more than 49,000 AFY of unproduced
19 Agricultural Pool water available. (Jurupa Services District's response to Judge
20 Reichert's Request for Clarification, March 22, 2016, page 2, lines 10-14.)

21
22 B. The 2000 Peace Agreement aka Peace I

23 1. With the agreements made in Peace I, the elements of Desalters and of
24 water transfers entered the water allocations to the parties.

25 2. Peace I Section V-Watermaster Performance defined how Watermaster
26 was to perform regarding procedures for Recharge and Replenishment. In paragraph
27 ¶5.3(g), Watermaster was ordered to approve an "Early Transfer" from the
28 Agricultural Pool to the Appropriative Pool of not less than 32,800 acre-feet per year

1 which was the expected approximate quantity of water not produced by the
2 Agricultural Pool. ¶5.3(g)(i) further stated that “the quantity of water subject to Early
3 Transfer under this paragraph shall be the greater of (i) 32,800 acre-feet or (ii) 32,800
4 acre-feet plus the actual quantity of water not produced by the Agricultural Pool for
5 that Fiscal Year that is remaining after all the land use conversions are satisfied
6 pursuant to” the following provision: “the Early Transfer water shall be annually
7 allocated among members of the Appropriative Pool in accordance with their pro-
8 rata share of the initial Safe Yield.” The court notes that after this deduction, the
9 Safe Yield water available to the Agricultural Pool became 50,000 acre-feet per year.

10 3. Peace I also introduced the construction and operation of Desalters in
11 Section VII. ¶7.5 described replenishment for the Desalters provided from the
12 following sources in the following order:

13 a) Watermaster Desalter replenishment account composed of 25,000 acre-feet
14 of water abandoned by Kaiser and other water previously dedicated by the
15 Appropriative Pool;

16 (b) New Yield of the Basin, unless the water Produced and treated by the
17 Desalters is dedicated by purchaser of the Desalter water to offset the price of
18 Desalter water to the extent of the dedication;

19 (c) Safe Yield of the Basin, unless the water Produced and treated by the
20 Desalters is dedicated by a purchaser of the desalted water to offset the price of
21 Desalter water to the extent of the dedication; [and then]

22 d) Additional Replenishment Water purchased by Watermaster, the cost of
23 which shall be levied as an Assessment by Watermaster.

24 4. The court also concludes that the conversion claims have priority over
25 the Early Transfers because the conversion claims pre-existed the Early Transfer
26 allocations. The conversion claims came into existence with the 1995 Judgment
27 amendment. The Early Transfers came into existence with Peace I in 2000. The
28 Early Transfers must be interpreted in the context of the pre-existing 1995 Judgment

1 amendment.

2 5. CONCLUSION: With Peace I, there were major changes regarding the
3 allocation of water among the parties as set forth in the following table.

| 4 Ag Pool water | 5 Status and/or change 6 result | 7 Comments |
|--|--|---|
| 8 1995 Judgment 9 amendment | 10 82,800 AFY of the Ag 11 Pool's water available to 12 the Appropriate Pool with 13 Appropriative Pool claims 14 prioritized as follows: 15 (1) to supplement, in the 16 particular year, water 17 available from Operating 18 Safe Yield to compensate 19 for any reduction in the 20 Safe Yield by reason of 21 recalculation thereof after 22 the tenth year of 23 operation hereunder. 24 (2) pursuant to conversion 25 claims as defined in 26 Subparagraph (b) hereof. 27 (3) as a supplement to 28 Operating Safe Yield, without regard to reductions in Safe Yield. | |
| 27 2000 Peace I-Desalters 28 start construction and | Early Transfers of 32,800 AFY of Ag Pool water | New Yield (with conditions) is source of |

| | | |
|--|---|--|
| <p>1 pumping water</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> | <p>going straight to the</p> <p>Appropriative Pool</p> <p>(leaving 50,000 AFY to</p> <p>Ag Pool). The remaining</p> <p>Ag Pool water is subject</p> <p>to Appropriative Pool's</p> <p>prioritized claims.</p> | <p>water to replenish water</p> <p>pumped by the</p> <p>Desalters. Under Peace</p> <p>I therefore Desalters do</p> <p>not affect Safe Yield or</p> <p>Operating Safe Yield.</p> <p>Water</p> <p>produced/pumped by</p> <p>the Desalters is not</p> <p>added to or subtracted</p> <p>from Safe Yield of the</p> <p>Basin.</p> |
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13 The court concludes that Peace I interrelated Early Transfers and conversion

14 claims in the following way. The Appropriative Pool received unproduced Ag Pool

15 water in at least the amount of 32,800 AFY, but the Appropriative Pool could receive

16 more unproduced Ag Pool water if 1) the Ag Pool did not produce/pump its leftover

17 50,000 AFY and 2) also after subtracting from the 50,000 AFY the Appropriative

18 Pool's conversion claims at the rate of 2 acre-feet per year per converted acre.

19 However, the court also concludes that Peace I did not rearrange the priority

20 of allocation claims on unproduced/unpumped water. The priorities of the

21 judgment remain. Specifically, the priority set forth in Judgment, Exhibit "H,"

22 Paragraph 10.

23 EXAMPLE 1: So, for example in a particular year,

- 24 1. If one Appropriative Pool producer/pumper (e.g., municipality, such as the City of
- 25 Chino) had 1000 acres of converted land resulting in 2000 acre-feet of conversion
- 26 claims (1000 acres x 2.0 acre feet of water/one acre converted), and assuming those
- 27 were the only conversion claims; and
- 28 2. If the Ag Pool produced/pumped only 33,600 AFY leaving 49,200 AFY available

1 for further allocation (82,800 AFY– 33,600 AFY= 49,200 AFY; the court notes that
 2 33,600 AFY is the approximate Ag Pool credited production [Jurupa response to
 3 court’s clarification request, page 2, lines 9-10], but the court is using this figure only
 4 for illustration); then,

5 3. The Ag Pool water that would be available to the Appropriative Pool would be
 6 based on the following calculation

| Example 1-A | Explanation | Comments |
|---|------------------|---|
| Initial Ag Pool allocation | 82,800 AFY | |
| Ag Pool production/pumping | - 33,600 AFY | Assumption |
| Initial balance after production | 49,200 AFY | (82,800 acre-feet – 33,600 acre-feet = 49,200 acre-feet per year) |
| Conversion claims | - 2000 acre-feet | 1000 acres x 2.0 acre feet of water/one acre converted = 2000 acre-feet per year. The subtraction for satisfying conversion claims comes before any reallocation. The conversion claims are applied first because they are set forth in the 1995 Amendment to the Judgment |
| Ag Pool balance after reduction for conversion claims | 47,200 AFY | (49,200 acre-feet - 2000 acre-feet = 47,200 acre-feet per year) Balance: Ag Pool water available to Appropriative Pool after conversion priority claims pursuant to Judgment Exhibit |

| | | |
|--|---|--|
| | | "H" Paragraph 10. |
| 1 2 3 4 5 6 7 8 9 10 | Reduction for Early Transfers | - 32,800 AFY The Early Transfer is now applied because Early Transfers were instituted in Peace I in 2000. The Early Transfer from 82,800 AFY allocation leaving 50,000 AFY for the Ag Pool itself to produce/pump and for additional claims by the Appropriative Pool pursuant to Peace I and Peace II.* |
| 11 12 13 14 15 16 17 18 19 20 21 22 | Balance: Ag Pool water available to the Appropriative Pool after conversion priority claims and Early Transfers | 14,400 AFY (47,200 acre-feet -32,800 acre-feet = 14,400 acre-feet per year.) This is the total Ag Pool water available for reallocation to Appropriative Pool for production/pumping after subtraction of conversion priority claims of 2,000 acre-feet per year from and the 32,800 Early Transfer from the allotment of Ag Pool water.** |
| | | |

*It appears to the court that for convenience, many parties first simply take the reduction of the 32,800 acre-feet for Early Transfers and start these calculations with 50,000 acre-feet of Ag Pool water.

1. That calculation is simply to start with the 50,000 acre-feet of unproduced/unpumped Ag Pool water and then subtract the amount 33,600 acre-feet that was actually pumped in this example. The result is 16,400 acre-

1 feet available for conversion claims.

2 2. Then subtract the 2,000 acre-feet for conversion claims to get the 14,400 acre-
3 feet of Ag Pool water available for allocation to the Appropriative Pool.

4 3. However, this procedure is inconsistent with the judgment and Peace
5 Agreements as interpreted by the court for the reasons stated above.

6 **The also court notes that the particular producer who serviced the converted acres
7 would actually be able to pump the additional conversion claim water as an
8 allocation.

9
10 EXAMPLE 2: The following example demonstrates complications arising
11 from a decrease in the amount of Ag Pool water available to the Appropriative Pool.
12 If the Ag Pool produced/pumped more than 48,000 AFY there would be no
13 available water for the Appropriative Pool.

| Example 2 | | Comment |
|----------------------------------|------------------|--|
| Initial Ag Pool allocation | 82,800 AFY | |
| Ag Pool production/pumping | 48,000 AFY | Assumption |
| Initial balance after production | 34,800 AFY | 82,800 acre-feet – 48,000 acre-feet = 34,800 acre-feet per year |
| Conversion claims | - 2000 acre-feet | The subtraction for satisfying conversion claims before any reallocation. (1000 acres x 2.0 acre feet of water/one acre converted = 2000 acre-feet). |
| Balance: | 32,800 AFY | 34,800 acre-feet – 2,000 acre-feet = 32,800 acre-feet per year. Ag Pool Water Available after conversion |

| | | |
|--|--------------|---|
| | | priority claims pursuant to Judgment Exhibit "H" Paragraph |
| Reduction for Early Transfers | - 32,800 AFY | Early Transfer of 32,800 AFY from 82,800 AFY allocation leaving 50,000 AFY for the Ag Pool itself to produce/pump. Any water which the Ag Pool did not produce/pump water up to the 50,000 AFY would be available for allocation to the Appropriative Pool pursuant to Peace I and Peace II. |
| Balance: Ag Pool water available after conversion priority claims and Early Transfers | 0 AFY | 32,800 acre-feet - 32,800 acre-feet = 0 acre-feet per year. There would be no Ag Pool water available for reallocation to Appropriative Pool after subtraction of conversion priority claims of 2,000 acre-feet and the 32,800 Early Transfer of unproduced/unpumped from the allotment of Ag Pool water. |
| <p>Conclusion:</p> <p>Under this scenario, the Appropriative Pool would not get any additional allocation from Ag Pool water</p> | | |

6. Regarding replenishment for the Desalters, Peace I ¶7.5 sets forth the hierarchy of sources of replenishment water for the Desalters as follows:

Replenishment Water. Replenishment for the Desalters shall be provided from the following sources in the following order of priority.

(a) Watermaster Desalter Replenishment account composed of 25,000

1 acre-feet of water abandoned by Kaiser pursuant to the "Salt Offset
2 Agreement" dated October 21, 1993, between Kaiser and the RWQB, and
3 other water previously dedicated by the Appropriative Pool.

4 (b) New Yield of the Basin, unless the water Produced and treated by
5 the Desalters is dedicated by a purchaser of the desalters water to offset the
6 price of the salted water to the extent of the dedication;

7 (c) Safe Yield of the Basin, unless the water Produced and treated by
8 the Desalters is dedicated by a purchaser of the the salted water to offset the
9 price of the salted water to the extent of the dedication;

10 (d) Additional Replenishment Water purchased by Watermaster, the
11 cost of which shall be levied as an Assessment by Watermaster.

12
13 C. The 2007 Peace II Agreement (Peace II)

14 1. Peace II Agreement Article VI-Groundwater Production by and
15 Replenishment for Desalters and Article VII-Yield Accounting further defined the
16 accounting for the Desalters and Desalter Production Offsets.

17 2. Peace II Paragraph 6.2(a)(iii) states as follows in pertinent part:
18 Peace II Desalter Production Offsets. To facilitate Hydraulic Control through
19 Basin Re-Operation, [court note: that is, water pumped as part of the 600,000
20 AF controlled overdraft] in accordance with the 2007 Supplement to the
21 OBMP Implementation Plan and the amended Exhibits G and I to the
22 Judgment, additional sources of water will be made available for purposes of
23 Desalter Production and thereby some or all of a Replenishment obligation.
24 With these available sources, the Replenishment obligation attributable to
25 Desalter production in any year will be determined by Watermaster as follows:

26 (a) Watermaster will calculate the total Desalter Production for the
27 preceding year and then apply a credit against the total quantity from: . . .

28 (iii) New Yield (other than Stormwater (Peace Agreement Section

1 7.5(b)); . . .

2 v) Safe Yield that may be contributed by the parties (Peace
3 Agreement Section 7.5(c));

4 (vi) any Production of groundwater attributable to the controlled
5 overdraft authorized pursuant to amended Exhibit I to the Judgment.
6 [The Judgment allowed for a temporary controlled overdraft, *i.e.*,
7 initially 200,000 AF and then an additional 400,000 AF total
8 production/pumping starting in 2007 and ending in 2026 without
9 replenishment, in order to achieve Hydraulic Control. (Safe Yield Reset
10 Implementation Desalter Replenishment Accounting Illustration (per
11 Peace II Agreement, Section 6.2 (PIIA, 6.2) and June 11, 2015 Key
12 Principles)–Exhibit C to Attachment 1, Watermaster’s Motion regarding
13 2015 Safe Yield Reset Agreement, Amendment of Restated Judgment,
14 Paragraph 6.]

15 Paragraph 7.1 provides as follows:

16 New Yield Attributable to the Desalters. Watermaster will make an annual
17 finding as to the quantity of New Yield that is made available by Basin Re-
18 Operation including that portion that is specifically attributable to the Existing
19 and Future Desalters. Any subsequent recalculation of New Yield as Safe
20 Yield by Watermaster will not change the priority set forth above for
21 offsetting Desalter production as set forth in Article VII, Section 7.5 of the
22 Peace Agreement. For the initial term of the Peace Agreement, neither
23 Watermaster nor the Parties will request that Safe Yield be recalculated in a
24 manner that incorporates New Yield *attributable to the Desalters* [emphasis in
25 original] into a determination of Safe Yield so that this source of supply will be
26 available for Desalter Production rather than for use by individual parties to
27 the Judgment.

28 2. Additionally, in 2007 Peace II ¶1.1(d) defined Re-Operation as “the

1 controlled overdraft [pumping without replenishment] of the Basin by the managed
2 withdrawal of groundwater Production for the Desalters and the potential increase in
3 the cumulative un-replenished Production from 200,000 [acre-feet] authorized by
4 paragraph 3 Engineering Appendix Exhibit I to the Judgment, to 600,000 acre-feet
5 for the express purpose of securing and maintaining Hydraulic Control as a
6 component of the Physical Solution.” The Peace II agreement amended the Restated
7 Judgment’s Engineering Appendix to specify the additional 400,000 acre-feet that
8 would be dedicated exclusively to the purpose of Desalter replenishment (Restated
9 Judgement Exhibit “I” §2(b)[3]).

10 3. Peace II, Paragraph 6.2(a)(iii) gives Watermaster a basis to calculate the
11 total Desalter production from the preceding year and then apply against that
12 production/pumping a “credit” (*i.e.*, a reduction) which included a number of
13 factors, including New Yield referencing Peace I, paragraph 7.5(b). This credit
14 procedure is an important issue going forward for the administration of water
15 allocations:

16 a) Peace I, paragraph 1.1(aa) defines New Yield as “proven increases in
17 yield in quantities greater than historical amounts from sources of
18 supply including, but not limited to, operation of the Desalters
19 (including the Chino I Desalter), induced Recharge and other
20 management activities implemented in operational after June 1, 2000.”

21 I) The court concludes that New Yield in the above paragraph means
22 water produced/pumped by the Desalters, because that is how yield is
23 always used, e.g., Safe Yield, Operating Safe Yield, etc., and the source
24 of supply is the Desalters as identified in the definition.

25 II) So, New Yield includes water produced/pumped by the Desalters.

26 b) Peace I, paragraph 1.1(nn) defines “Recharge and Recharge Water as
27 “introduction of water to the Basin, directly or indirectly,” Recharge
28 references the physical act of introducing water to the Basin.”

- 1 c) The conclusion of the court is that after Peace II, the definition New
2 Yield now includes both Desalter operation, *i.e.*, production/pumping
3 from the Desalters, and induced Recharge (*i.e.*, groundwater flowing
4 back into the Basin from the Santa Ana River as the result of Desalter
5 operation).
- 6 d) Peace II was consistent with Peace I. Peace II provided that the parties
7 would avoid some or all or a replenishment obligation for Desalter
8 production by getting credit/reduction against that production from
9 sources such as New Yield which includes induced Recharge.
- 10 I) Peace I defined New Yield to include “operation of the Desalters” and
11 “induced Recharge.”
- 12 II) The court concludes that the Peace I and Peace II when read together
13 recognized that some of the water which the Desalters
14 produced/pumped came from induced recharge form the Santa Ana
15 River.
- 16 III) Peace II was not explicit it stating that the Desalter production
17 offset should follow the priorities of Peace I ¶7.5, but the court
18 concludes that the replenishment water, *i.e.*, Desalter-induced recharge,
19 must follow the priorities of Peace I.
- 20 (a) The agreements must be read together and interpreted together
21 because they form a context for each other.
- 22 e) In its response to Judge Reichert’s questions, Chino argued that SYRA’s
23 failure to give a specific definition to “Desalter-induced recharge” was
24 purposeful because the failure allowed SYRA to use “Desalter-induced
25 recharge” synonymously with New Yield. The court does not find
26 “Desalter-induced recharge” to be synonymous with New Yield. The
27 court finds that “Desalter-induced recharge” is only synonymous with
28 “induced Recharge.” Therefore Desalter-Inducted Recharge is included

1 in the definition of New Yield, as set forth in Peace I ¶1(aa): “induced
2 Recharge and other management activities implemented in operational
3 after June 1, 2000” includes Desalter-induced recharge.

4 I) . The court further finds that “Desalter-induced recharge” and
5 “induced Recharge” mean water flowing back into the Basin from the
6 Santa Ana River due to production/pumping by the Desalters lowering
7 the ground water table in the Basin. Finally, the court notes that New
8 Yield includes Desalter production and Desalter-induced recharge.

9 (a) This result is exactly what the Desalters were designed to
10 accomplish. They have achieved Hydraulic Control, meaning they
11 have lowered the water table at the south end of the Basin, so that
12 only a de minimus amount of Basin water is flows into the Santa
13 Ana River.

14 (b) In fact the Desalters have accomplished their design objective so
15 well that now some water flows from the Santa Ana River into the
16 Chino Basin. The court finds that his water is New Yield as set
17 forth above.

18 II) The court further finds that “Desalter-induced recharge” aka “induced
19 Recharge” is measureable, part of which comes from the Santa Ana
20 River, and is set forth in Watermaster’s response to the court’s
21 questions. This water is also known as Santa Ana River Underflow or
22 SARU.

23 4. Peace II specified Desalter production/pumping replenishment to
24 include induced Recharge, controlled overdraft, and other sources set forth in Peace
25 II ¶6.2(a). The Peace I and Peace II agreements did not specify any additional
26 sources of Desalter replenishment, such as Ag Pool water or Safe Yield.

27 5. CONCLUSION:

28 Now, after Peace II, there were additional sources of water for the Basin, the

1 Desalter operation/Desalter-induced recharge, as well as the historical overdraft, as
 2 summarized below.

| Ag Pool water | | Comments |
|---|---|---|
| 1995 Judgment amendment | 82,800 AFY of the Ag Pool's water available to the Appropriate Pool with Appropriative Pool claims prioritized as follows: (1) to supplement, and the particular year, water available from Operating Safe Yield to compensate for any reduction in the Safe Yield by reason of recalculation thereof after the tenth year of operation hereunder. (2) pursuant to conversion claims as defined in Subparagraph (b) hereof. (3) as a supplement to Operating Safe Yield, without regard to reductions in Safe Yield. | |
| 2000 Peace I-Desalters start construction and pumping water | Early Transfers of 32,800 AFY of Ag Pool water now go to the Appropriative Pool | New Yield (with conditions) is source of water to replenish water pumped by the |

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| | <p>(leaving 50,000 AFY to Ag Pool). The remaining Ag Pool water is subject to Appropriative Pool's prioritized claims. Peace I §1.1(aa) defines New Yield to include water produced/pumped from the Desalters.</p> | <p>Desalters. Water produced/pumped by the Desalters is New Yield and sourced by induced recharge and overdraft. As New Yield, water pumped by the Desalters is not Safe Yield or Safe Operating Yield. That water is "yield" attributable to specific sources of supply not included in Safe Yield. (Watermaster's Response to Order for Additional Briefing, page 5, line 22-23.) Therefore at the time of Peace I Desalter operations did not affect Safe Yield or Operating Safe Yield. Water produced/pumped by the Desalters was not added to or subtracted from yield of the Basin. Water</p> |
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| | | |
|-----------------------------------|--|---|
| | | produced/pumped by the Desalters had a separate allocation. |
| 2007 Peace II-overdraft increased | Additional 400,000 AF above the 200,000 AF provided in the Judgment for a total of 600,000 AF. | This is a diminishing pumping allocation as the overdraft goes to 0 in 2017. Its purpose was to help establish Hydraulic Control. |
| Peace II Desalters | Peace II ¶7.1 requires Desalter production (defined as New Yield) excluded from the definition of Safe Yield. However, Peace II Article VI identifies offsets for Desalter production, which includes New Yield the meaning of which includes induced Recharge. (Peace I, ¶1.1(aa).) | Desalter production reaches above 20,000 AFY. Watermaster's Response to Order for Additional Briefing, Exhibit 1. |

The court concludes that Peace II did not change any of the priorities for claims on actual water production. Peace II addressed Desalter replenishment and production/pumping but did not affect the priorities for allocations of unproduced Ag Pool water.

1 **V. SYRA ARTICLE 5-STORMWATER RECHARGE PLAN AND**
2 **WATERMASTER ACCOUNTING ANALYSIS**

3 In the instant motion, Watermaster asks the court to approve 1) a stormwater
4 recharge plan, and 2) an accounting for allocation transfers as set forth in the Safe
5 Yield and Reset Agreement (SYRA). The court will address these proposals
6 separately.

7 A. Stormwater Recharge–SYRA ¶5.1

8 1. Although there have been no objections to this aspect of SYRA, the
9 court denies its enforcement because the court finds that SYRA’s provisions
10 regarding anything other than they Safe Yield reset cannot be severed for the reasons
11 set forth in Section II above.

12
13 B. Desalter-Induced Recharge Allocations, Early Transfers, Land Use
14 Conversion–SYRA ¶5.2 and SYRA ¶5.3.

15 1. Because these provisions are major sources of contention among the
16 parties, the court will set them forth in their entirety.

17 SYRA ¶5.2 sets forth the following provisions regarding Desalter Induced
18 Recharge, and SYRA ¶5.3 sets forth the following provisions regarding Post 2030
19 Land Use Conversions and Early Transfers.

20 5.2 Desalter-Induced Recharge. After the Effective Date and until
21 termination of this Agreement, the parties expressly consent to Watermaster’s
22 accounting for Basin recharge arising from or attributable the Desalters as
23 follows:

24 (a) 2001-2014 Desalter-Induced Recharge. Induced recharge that
25 arises from or is attributable to the Desalters for the period of production
26 years 2001-2014 shall be accounted for as Safe Yield, in the manner it has been
27 distributed through approved Watermaster Assessment Packages, shall not be
28 considered New Yield, and shall not be considered to have been available for

1 production by the Desalters.

2 (b) 2015-2030 Desalter-Induced Recharge. For the production years
3 of 2015- 2030, Watermaster shall account for induced recharge that arises
4 from or is attributable to the Desalters as equal to fifty (50) percent of the total
5 Desalter Production during each applicable production year up to a maximum
6 of twenty-thousand (20,000) AFY of recharge. Consistent with Paragraph
7 6.2(a)(iii) of the Peace II Agreement, Watermaster shall deem the induced
8 recharge as having been produced by the Desalters. During each applicable
9 production year, Watermaster shall reduce Safe Yield by an amount equal to
10 fifty (50) percent of the total Desalter Production, up to a maximum of
11 twenty-thousand (20,000) AFY, and require a corresponding supplementation
12 by the reallocation of available unproduced Agricultural Pool's share of the
13 Basin's Safe Yield.

14
15 Claims for reallocation of the remaining unproduced quantity of the
16 Agricultural Pool's share of Safe Yield shall be satisfied consistent with section
17 6.3(c) of Watermaster's Rules and Regulations, as amended as part of the
18 Peace II Measures, and the October 8, 2010 Order Approving Watermaster's
19 Compliance with Condition Subsequent Number Eight and Approving
20 Procedures to be used to Allocated Surplus Agricultural Pool Water in the
21 Event of a Decline in Safe Yield.

22 (c) 2031-2060 Desalter-Induced Recharge. Should the term of the
23 Peace Agreement be extended pursuant to Paragraph 8.4 thereof, the
24 treatment of Desalter-Induced Recharge shall be subject to the negotiation of
25 a new and separate agreement among the Parties to the Judgment. The
26 accounting provided for in Section 5.2(b), above, shall be without prejudice to
27 the negotiation of such a new and separate agreement among the Parties to the
28 Judgment. Unless otherwise agreed by the Parties or ordered by the court,

1 during the extension term, Watermaster shall not consider such recharge to
2 require supplementation by the reallocation of a portion of the unproduced
3 Agricultural Pool's share of Safe Yield.

4
5 5.3 Post-2030 Priority among Land Use Conversion and Early Transfer
6 Claims. At the expiration of the Peace II Agreement, the Peace II provisions
7 relating to the distribution of surplus water by the Agricultural Pool requiring
8 that claims for the Early Transfer of 32,800 AFY and for Land Use
9 Conversion be treated equally are expressly repealed including (i) the
10 amendment to Section 6.3(c) of Watermaster's Rules and Regulations,
11 pursuant to the Peace II measures, and (ii) Section III.(6) of the October 8,
12 2010 Order Approving Watermaster's Compliance with Condition Subsequent
13 Number Eight and Approving Procedures to be used to Allocate Surplus
14 Agricultural Pool Water in the Event of a Decline in Safe Yield. In any Peace
15 Agreement extension term, the previous changes to Restated Judgment,
16 Exhibit "H", Paragraph 10(b)(3)(i) effectuated by Paragraph 4.4(c) of the
17 Peace Agreement, which, to the extent sufficient unallocated Safe Yield from
18 the Agricultural Pool is available for conversion claims, allocate 2.0 acre-feet
19 of unallocated Safe Yield water for each converted acre, shall remain in effect.
20

21 C. The court summarizes the effect of these SYRA proposals ¶5.2 and ¶5.3 as
22 follows:

| Ag Pool water | | Comments |
|-------------------------|--|----------|
| 1995 Judgment amendment | 82,800 AFY of the Ag Pool's water available to the Appropriate Pool with Appropriative Pool claims prioritized as follows: | |

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| | <p>(1) to supplement, and the particular year, water available from Operating Safe Yield to compensate for any reduction in the Safe Yield by reason of recalculation thereof after the tenth year of operation hereunder.</p> <p>(2) pursuant to conversion claims as defined in Subparagraph (b) hereof.</p> <p>(3) as a supplement to Operating Safe Yield, without regard to reductions in Safe Yield.</p> | |
| <p>2000 Peace I- Desalters start construction and pumping water</p> | <p>Early Transfers of 32,800 AFY of Ag Pool water now goes to the Appropriative Pool (leaving 50,000 AFY to Ag Pool). The remaining Ag Pool water is subject to Appropriative Pool's prioritized claims.</p> | <p>New Yield (with conditions) is source of water to replenish water pumped by the Desalters. Therefore Desalters do not affect Safe Yield or Operating Safe Yield. Water produced/pumped by the Desalters is not added to or subtracted from Safe Yield or</p> |

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| | | Operating Safe Yield of the Basin. |
| 2007 Peace II-overdraft increased | Additional 400,000 AF above the 200,000 AF provided in the Judgment for a total of 600,000 AF. | This is a diminishing pumping allocation as the overdraft goes to 0 in 2017. |
| <p>SYRA proposal: (see column to right for <i>Steps 1-3</i>): <i>Step 4</i>: SYRA ¶5.2(b) subtracts 50% of total Desalter production up to 20,000 AFY from Ag Pool Water and then adds that 50% of total Desalter production up to 20,000 AFY to Safe Yield (to make up for the subtraction in <i>Step 3</i>).*</p> | <p>SYRA proposal <i>Step 1</i>: The Desalter production/pumping up to 20,000 AFY is allocated to the Desalters, not as Safe Yield or Safe Operating Yield [or New Yield].</p> <p><i>Step 2</i>: Under SYRA ¶5.2(b) one-half of the source of Desalter production up to 20,000 AFY is attributed to “Desalter-induced recharge.” Desalter-induced Recharge means water flowing back into the Basin from the Santa Ana River.</p> <p><i>Step 3</i>: SYRA then subtracts the other half of Desalter production up to 20,000 AFY from Safe Yield.</p> | |
| <p>Additional SYRA Effects: <i>Step 5</i> (see above for <i>Steps 1-4</i>) The Ag Pool water allocation is reduced by up to 20,000 AFY for the Desalters.</p> | | |

1 SYRA is unclear where the priority lies with respect to priority of allocation as
 2 required by Judgment Exhibit "H" Paragraph 10. The court orders that those
 3 priorities must be followed. Because the court has ordered that those priorities be
 4 followed, court concludes that it cannot order these provisions of SYRA in
 5 addition to SYRA's not being severable. At best SYRA is ambiguous with respect
 6 to following the priorities set by the Judgment and the Court Approved
 7 Management Agreements. At worst, SYRA contradicts them.

8 *So, the court concludes that previous to SYRA, the Desalter water
 9 production/pumping could be offset from a prioritized list of sources including New
 10 Yield (induced recharge). Now under SYRA:

11 1) All of the induced recharge gets allocated to water produced/pumped by
 12 the Desalters.

13 2) Watermaster reduces Safe Yield by 50% of the Desalter production up to
 14 20,000 AFY.

15 3) Then, Watermaster adds to Safe Yield 50% of the Desalter production up
 16 to 20,000 AFY, from water allocated to the Ag Pool, to make up for (aka backfill) the
 17 reduction in Safe Yield allocated to Desalter production.

18 4) This means that the availability of Ag Pool water goes down and thereby the
 19 availability of unproduced Ag Pool water for the priorities set forth in the Judgment
 20 and the Court Approved Management Agreements. The priorities are also set forth in
 21 Watermaster Rules and Regulations ¶6.3(a).

22 5) Elaborating on Example 1-A from Section IV.B.5 of this order above, the
 23 court's analysis is as follows

| Example 1-B | Explanation | Comment |
|----------------------------|--------------|--|
| Initial Ag Pool allocation | 82,800 AFY | Judgment |
| Ag Pool production/pumping | - 33,600 AFY | Assumption based the current credited production (pumping) |

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| | | for agricultural groundwater is about 33,600 AFY, but that includes agricultural land irrigated with reclaimed water. [The actual groundwater production for agricultural purposes is about 22,000 AFY. Jurupa Services District’s response to Judge Reichert’s Request for Clarification, March 22, 2016 page 2, lines 8–10.] |
| Initial balance after production | 49,200 AFY | 82,800 acre-feet – 33,600 acre-feet = 49,200 acre-feet |
| Conversion claims | - 2000 acre-feet | Assumption: The subtraction for satisfying conversion claims before any reallocation. (1000 acres x 2.0 acre feet of water/one acre converted = 2000 acre-feet). |
| Balance: | 47,200 AFY | 49,200 acre-feet - 2000 acre-feet = 47,200 acre-feet. Ag Pool Water available after conversion priority claims pursuant to Judgment Exhibit “H” Paragraph 10 |
| Reduction for Early Transfers | - 32,800 AFY | Basic Early Transfer from 82,800 AFY allocation leaving 50,000 AFY for the Ag Pool itself to produce/pump and for |

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| | | additional claims by the Appropriative Pool pursuant to Peace I and Peace II.* |
| Balance | 14,400 AFY | (47,200 acre-feet - 32,800 acre-feet = 14,400 acre-feet. This is the Ag Pool water available for reallocation to Appropriative Pool after subtraction of conversion priority claims of 2,000 acre-feet from and the 32,800 Early Transfer of unproduced/unpumped from the allotment of Ag Pool water. |

Now, to examine the effect of SYRA on the Appropriative Pool:

| | | |
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| Starting balance available Ag Pool water | 14,400 AFY | Total Ag Pool water available for production/pumping from the example above |
| Desalter reallocation | - 20,000 AFY | SYRA Desalter reallocation: 20,000 AFY of Desalter production is allocated from Ag Pool water to Safe Yield. |
| Balance: | - 5,600 AFY | A negative amount. This plausible scenario assumes 2,000 AFY of conversion claims. The negative balance shows that this scenario under SYRA would not leave sufficient Ag Pool water for |

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| | | <p>that amount of conversion claims. In order to meet conversion claims and Early Transfer allocations, the Ag Pool would only be able to produce/pump 26,000 AFY, well below their current credited pumping. Calculation follows:</p> $82,800/\text{initial allocation}$ $- 26,000/\text{pumped} = 56,800$ $56,800 - 2,000/\text{conversion claims} = 54,800$ $54,800 - 32,800/\text{Early Transfer} = 20,000$ $20,000 - 20,000/\text{Desalter reduction from Ag Pool Allocation} = 0$ |
|--|--|---|

The court concludes that there is no basis in the Judgement or any of the Court Approved Management Agreements for the post SYRA result identified in the plausible scenario above.

D. Further Analysis and orders:

1. In addition to SYRA's not being severable, the court denies Watermaster's motion with respect to the implementation of ¶5.2 and ¶5.3 of SYRA for the following reason:

- a) The court concludes that SYRA paragraphs 5.2 and 5.3 fundamentally change the allocations of Appropriative Pool and of Ag Pool water. Those fundamental changes are inconsistent with the Judgment and the

1 Court Approved Management Agreements

2 b) Peace I and Peace II both define Desalter production as within the
3 definition of New Yield and therefore outside of the definition of Safe
4 Yield. Through a several step re-allocation reassignment described
5 above and summarized in this section of the court's order, SYRA now
6 moves Desalter production into Safe Yield. The parties have not
7 demonstrated any legal ~~or practical requirement~~ **basis** which allows this.
8 Peace I and Peace II prohibit this.

9 c) The court concludes that Peace II Agreement Paragraphs 6.2(a)(iii) and
10 7.1 provide that through 2030 (the initial term of Peace I Agreement as
11 set forth in ¶8.2) recharge attributable to the Desalters is allocated for
12 Desalter Production and not allocated as Safe Yield producible (*i.e.*,
13 water available to be pumped without a replenishment obligation by
14 purchase or otherwise).

15 I) Peace II ¶7.1 excluded New Yield attributable to the Desalters from
16 a determination of Safe Yield, at least for the 30 year term of Peace
17 Agreement.

18 II) Peace I ¶1.1(aa) defines New Yield to include induced recharge.

19 (a) The court finds that induced recharge includes Desalter-
20 induced recharge.

21 III) The court finds that Peace I ¶7.5 defines replenishment water for
22 the Desalters includes New Yield, but not Safe Yield.

23 IV) The court finds that Peace II ¶7.1 states that no party can
24 incorporate New Yield attributable to the Desalters into Safe Yield.

25 (a) In contradiction to Peace I and Peace II, SYRA ¶5.2(a)
26 explicitly defines Desalter-induced recharge as Safe Yield, in
27 contradiction to Peace I and Peace II.

28 V) In contradiction to the Peace I and Peace II, the court finds that

1 SYRA attempts to incorporate New Yield from the Desalters into
2 Safe Yield through the accounting method of 1) taking Desalter
3 induced yield water coming from Desalter-induced recharge, then 2)
4 moving that water into Safe Yield, then 3) backfilling Safe Yield
5 from unproduced Ag Pool water.

6 (a) This is an unacceptable circumvention of the court's orders
7 based on Peace I and Peace II.

8 d) The analysis above shows that these SYRA provisions are contrary to
9 the Judgment and the Court Approved Management Agreements,
10 specifically Peace I and Peace II. These SRYA provisions can prevent
11 the application of the Judgment provisions regarding conversion claims.
12 They are invalid.

13 e) There is no basis in the Judgment or the Court Approved Management
14 Agreements for the attribution of water production from Desalters into
15 the definition of Safe Yield.

16 f) There is no basis in the Judgment or any of the Court Approved
17 Management Agreements for the splitting and reallocation of Desalter
18 production/pumping to one-half to Desalter-induced recharge and one-
19 half to Safe Yield.

20 g) There is no basis in the Judgment or any of the Court Approved
21 Management Agreements to reallocate Ag Pool water to Safe Yield to
22 make up for the Safe Yield reallocated to the Desalters.

23 h) Due to the Desalters, there is now recharge coming from the Santa Ana
24 River back into the Chino Basin. SYRA Paragraph 5.2(b) takes the
25 Peace I and Peace II agreements one step—wrongfully—farther by
26 identifying how this recharge quantity will be estimated, *i.e.*, 50% of
27 Desalter Production, and then further specifies that amount of recharge
28 will be allocated to Desalter production and not to the parties as part of

1 their allocation of the Safe Yield. There is no legal basis in the
2 Judgment or the Court Approved Management Agreements for this
3 redefinition of Safe Yield to include of 50% of Desalter Production up
4 to 20,000 AFY through a mechanism of passing the amounts through
5 the Appropriative Pool allocation.

6 i) SYRA attempts now to remove the special exception for New Yield
7 from Desalter induced recharge and production and incorporate it into
8 Safe Yield. The mechanism by which SYRA attempts to do this is by 1)
9 taking half of the Desalter production and sourcing that
10 production/pumping from Desalter induced recharge from the Santa
11 Ana River and 2) sourcing the other half from the Appropriative Pool
12 through unproduced Ag Pool water. The court concludes and finds
13 that this attempt is not justified because it can interfere with the priority
14 of claims on unproduced Ag Pool water set forth in the judgment and
15 the Court-Approved Management Agreements.

16 I) The court notes that Peace II, Article VII-Yield Accounting, ¶7.2(d)
17 discusses a contingency if Western Municipal Water District
18 (WMWD) and the Appropriative Pool “do not reach agreement on
19 apportionment of controlled overdraft of Future Desalters, then no
20 later than August 31, 2009, the members of the Appropriative Pool
21 will submit a plan to Watermaster that achieves the identified goals
22 of increasing the physical capacity of the Desalters and potable water
23 use of approximately 40,000 acre-feet of groundwater production
24 from the Desalters from the Basin no later than 2012.”

25 II) The court concludes that the Desalter production of 40,000 acre-feet
26 has been under discussion since Peace II in 2007.

27 III) However, the court cannot accept the resolution set forth in
28 SYRA for the reasons stated in this order.

- 1 j) SYRA ¶5.2 and ¶5.3 contradict and conflict with Peace I and Peace II.
- 2 I) Peace II ¶7.1 requires neither Watermaster nor the parties to request
- 3 that safe yield be recalculated in a manner that incorporates New
- 4 Yield *attributable to the Desalters* into the determination of Safe Yield
- 5 so that this source of supply will be available for Desalter
- 6 Production rather than for use by individual parties to the judgment.
- 7 (Emphasis in original.)
- 8 II) SYRA now includes New Yield in the determination of Safe Yield in
- 9 two ways.
- 10 (a) First, SYRA takes up to 20,000 AFY away from Safe Yield
- 11 through Desalter Production.
- 12 (b) Second, SYRA adds back up to 20,000 AFY to Safe Yield
- 13 from unproduced Ag Pool water.
- 14 (c) The net change to Safe Yield is 0, but available Ag Pool water
- 15 for allocation is reduced up to 20,000 AFY. This re-allocation
- 16 and re-accounting, is not justified or supported in the Peace I,
- 17 Peace II, Watermaster Rules and Regulations, or the court's
- 18 orders of implementation, the Judgment, or the CAMAs.
- 19 (d) The following chain shows SYRA's violations of the previous
- 20 orders:
- 21 (i) Desalter-induced recharge is New Yield. (Peace
- 22 ¶1(aa).)
- 23 (ii) Peace II ¶7.1 prevents New Yield from being
- 24 incorporated within Safe Yield.
- 25 (iii) SYRA moves 20,000 AFY of Desalter-induced
- 26 recharge to the Ag Pool.
- 27 (iv) Then SYRA moves the 20,000 of Desalter-induced
- 28 recharge (now characterized as Ag Pool Water) into

1 Safe Yield.

2 (v) Therefore, SRYA recalculates Safe Yield to incorporate
3 New Yield in violation of Peace II ¶7.1

4 (vi) Moving the 20,000 AFY of Desalter-induced Recharge
5 through the portal of the Ag Pool water does not
6 change its definition of New Yield.

7 k) The court does not find a legal ~~or factual basis~~ for determining a post-
8 2030 priority among land use conversion and early transfer claims. The
9 priority is set forth in the judgment and as specified in this order

10 l) In addition to SYRA's not being severable, the court's 2010 order does
11 not require the implementation of ¶5.2 or ¶5.3.

12 Section III.(6) of the October 8, 2010 order states:

13 Watermaster is ordered to utilize the procedures regarding the re-
14 allocation of surplus Agricultural Pool water the event of a
15 decline in Safe Yield as described in the December 2008 staff
16 report and the December 4, 2008 memorandum from legal
17 counsel. Specifically, in the event that Operating Safe Yield is
18 reduced because of a reduction in Safe Yield, Watermaster will
19 follow the hierarchy provided for in the Judgment, exhibit "H,"
20 by first applying the unproduced Agricultural Pool water to
21 compensate Appropriative Pool members for the reduction in
22 Safe Yield. (Judgment, Exhibit "H," paragraph 10 (a).) If there
23 is unallocated water left, Watermaster will then follow the
24 remainder of the hierarchy and reallocate unallocated Agricultural
25 Pool water next to conversion claims then to supplement the
26 Operating Safe Yield without regard to reductions in Safe Yield
27 according to the guidance provided by Peace Agreement I & II
28 and Watermaster's rules and regulations as amended. If, after

1 applying the unallocated Agricultural Pool water to compensate
2 the Appropriate Pool members for the reduction in Safe Yield,
3 the actual combined production from the Safe Yield made
4 available to the Agricultural Pool, which includes overlying
5 Agricultural Pool uses combined with land use conversions and
6 the Early Transfer, exceeds 82,800 in any year, the amount of
7 water available to members of the Appropriative Pool shall be
8 reduced pro rata in proportion to the benefits received according
9 to the procedures outlined in Watermaster Rules and
10 Regulations.

11 I) In considering the reference to Watermaster Rules and
12 Regulations in the preceding paragraph, if the order is vague, the court
13 now clarifies it. In the instant order, the court has clarified that
14 Watermaster must follow the priorities set forth in the Judgment for
15 allocations of unproduced Ag Pool water.

16 II) The court has the continuing jurisdiction to interpret and apply
17 its previous orders in light of changing circumstances. In light of the
18 instant motion, the court is doing so.

19 III) JCSD correctly points out that pursuant to the Judgment
20 ¶15 the court is authorized “to make such further or supplemental
21 orders or directions as may be necessary or appropriate for
22 interpretation, enforcement or tearing out of this judgment”

23 IV) Because there has not been a reset in Safe Yield, the court
24 does not find that there has been a detrimental reliance on the court’s
25 October 8, 2010 Order. This would not be the first time that the
26 court’s orders and interpretations thereof have the subject of further
27 litigation.

28 V) Watermaster’s further response to order for additional briefing,

1 filed April 11, page 3, lines 15-19 states:

2 Both responses provided by the City of Chino and JCSD omit
3 the key fact: Section 6.3(c) Watermaster Rules and Regulations,
4 as amended pursuant to Peace II measures provides that water
5 unused by members of the Agricultural Pool shall be divided
6 equally between Land Use Conversions and Early Transfers. The
7 Court's October 8, 2010 Order provides that this shall be done
8 even if the safe yield declines. For the first time, approximately
9 five years following this Order, the City and JCSD would set it
10 aside and thereby unwind accounting, court approvals, and
11 agreements impliedly if not expressly made in reliance thereon.

12 m) No party has offered any specific detriment that would occur from the
13 court's instant orders regarding the priorities.

14 n) Watermaster is relying on its own interpretation of its own rules and
15 regulations which the court does not accept for the reasons set forth
16 herein. The court has clarified its October 8, 2010 Order.

17 I) Watermaster cannot use its own interpretations of the court's
18 orders to contradict the court's interpretation. The final decision is the
19 court's, not Watermaster's.

20 II) If there is any ambiguity that Watermaster finds the current
21 circumstances for the application of that Order III.(6) the court clarifies
22 it now. SYRA's reference to that order's provision does not help in its
23 clarification or application.

24 III) Watermaster argues that "in the event that Operating Safe
25 Yield is reduced because of a reduction in Safe Yield, Watermaster will
26 follow the reallocation hierarchy provided for in the Appropriative Pool
27 Pooling Plan by first applying the unallocated Ag Pool water to
28 compensate the Appropriate Pool members for the reduction in safe

1 yield. (Restated Judgment, exhibit “H), paragraph 10 (a).) If, thereafter,
2 there is unallocated water left, Watermaster then followed the
3 remainder of the hierarchy and reallocate unallocated agricultural Pool
4 water next to land use conversion claims and Early Transfer, and then
5 to supplement the Operating Safe Yield without regard reductions in
6 safe yield.” (Watermaster’s Reply to Oppositions to Motion regarding
7 2015 Safe Yield Recent Agreement, Amendment Restated Judgment,
8 Paragraph 6, page 24, lines 7-14.)

9 IV) This argument equates land use conversion claims and
10 Early transfer claims. This argument is incorrect for the reasons stated
11 herein. Additionally:

12 (a) The court’s order filed October 8, 2010, paragraph III.(6)
13 is quoted in full in section “I” above:

14 (b) This paragraph III.(6) provides no basis to equate land use
15 conversions and Early Transfers. The specific language of the
16 order requires Watermaster to follow the hierarchy in Judgment,
17 Exhibit “H” which does not include, or even mention, Early
18 Transfers. Early transfers were an aspect of Peace I, and the
19 court has interpreted and ordered the hierarchy to require
20 conversion claims to have priority over Early Transfer claims.

21 o) Additionally, the court rejects and denies the implementation of SYRA
22 ¶5.3 specifically because, as with SYRA ¶5.2, this provision has the
23 same problems of interpretation of the court’s 2010 Order Approving
24 Watermaster’s Compliance with Condition Subsequent Number Eight
25 and Approving Procedures to be used to Allocate Surplus Agricultural
26 Pool Water in the Event of a Decline in Safe Yield.

27 p) Watermaster’s erroneous interpretation of the order of priorities is not a
28 basis to continue that erroneous interpretation. If Watermaster has to

1 make a reallocation, then it must do so in order to follow the court's
2 order. A wrong practice can be long-standing, and still be wrong. A
3 wrong practice cannot be a basis of prejudice.

4 q) The court rejects any argument that this issue is subject to issue
5 preclusion. The specific issues raised by the oppositions to the motion
6 have not been specifically addressed by the court. They are not barred
7 by laches. The issues have been timely raised within the context of the
8 instant motion, and the court always retains jurisdiction to modify its
9 orders as those orders are drawn to the attention of the court, and the
10 court determines they require modification for the reasons set forth in
11 this order.

12
13 E. Dispute re priority of claims

14 A dispute has arisen concerning the priority of claims. The dispute concerns
15 the priority of allocation claims to unproduced/unpumped Ag Pool water. The 1978
16 Judgment, Exhibit "H," Paragraph 10 was very specific as set forth in section A of
17 this ruling above. For convenience, it is repeated here.

18 Paragraph 10 described "Unallocated Safe Yield Water" as follows:

19 To the extent that, in any 5 years, any portion of the share of Safe Yield
20 allocated to the Overlying (Agricultural) Pool is not produced, such
21 water shall be available for reallocation to members of the
22 Appropriative Pool as follows:

23 (a) Priorities. Such allocation shall be made in the following sequence:

24 (1) to supplement, and the particular year, water available from
25 Operating Safe Yield to compensate for any reduction in the Safe Yield
26 by reason of recalculation thereof after the tenth year of operation
27 hereunder.

28 (2) pursuant to conversion claims as defined in Subparagraph (b)

1 hereof.

2 (3) as a supplement to Operating Safe Yield, without regard to
3 reductions in Safe Yield.”

4 Confusion has arisen with respect to the relationship between the Judgment,
5 Exhibit “H,” Paragraph 10 on the one hand, and Watermaster Rules and Regulations
6 ¶6.3(a) on the other. Watermaster Rules and Regulations ¶6.3(a) states as follows:

7 Accounting of Unallocated Agricultural Portion of Safe Yield. In each
8 year, the 82,800 acre-feet being that portion of the Safe Yield Made
9 available to the Agricultural Pool under the Judgment, shall be made
10 available:

- 11 (i) To the Agricultural Pool to satisfy all demands for overlying
12 Agricultural Pool lands;
- 13 (ii) To land-use conversions were completed prior to October 1,
14 2000;
- 15 (iii) To land use conversions that have been completed after October
16 1, 2000; and
- 17 (iv) To the Early Transfer of 32,800 acre-feet from the Agricultural
18 Pool to the Appropriative Pool in accordance with their pro-rather
19 assigned share of Operating State Yield.

20 The confusion arises because Watermaster Rules and Regulation ¶6.3(a) does
21 not explicitly confirm the priority of allegations set forth in the Judgment and as
22 ordered by the court.

23 Chino has argued that

24 [T]he members of the Appropriative Pool have received the right to
25 participate in annual allocations of the Unproduced Agricultural Pool
26 Water instead of every five years called “Early Transfers” (Paragraph
27 5.3(f-g), Peace Agreement) and the right to an equal priority of Early
28 Transfers with Land Use Conversion Claims, which have a higher

1 priority under the Judgment, in order to maximize the amount of their
2 Early Transfer water to the appropriators do not have Land Use
3 Conversion Claims. (Paragraph 3.1(a)(i) and Attachment “F”, Peace II
4 Agreement). City of Chino’s Opposition Watermaster Motion
5 regarding 2015 Safe Yield Reset Agreement, Amendment of Restated
6 Judgment, Paragraph 6, page 13, lines 19-25.

7 Attachment “F” refers to the Watermaster Rules and Regulations 6.3(c). As
8 stated above, the court finds Watermaster Rules and Regulations 6.3(c) ambiguous.

9 The court finds that the Judgment must govern and take priority and
10 precedent for the interpretation of any Watermaster rule or regulation, including
11 Watermaster Rules and Regulations 6.3(c).

12
13 **At this time, the court additionally orders as follows:**

14 A. The order of priorities set forth in the Judgment, Exhibit “H,” Paragraph
15 10 must be followed; and

16 B. Watermaster Rules and Regulations ¶ 6.3, and particularly ¶¶6.3(a) and (c),
17 are to be interpreted to follow the priorities set forth in Judgment, Exhibit “H,”
18 Paragraph 10. In particular, the court orders conversion claims are to receive a
19 higher priority than Early Transfer claims for the following reasons:

20 (1) The conversion claims are set forth in the judgment;

21 (2) Early Transfer claims were a creation of Peace I;

22 (3) Early Transfer claims did not affect the priority of claims set forth in
23 the judgment;

24 (4) Early Transfer claims were ordered after the judgment and so must
25 be considered subordinate to the original terms of the judgment.

26 (5) The parties to Peace I made their agreement in the context of the
27 judgment and therefore used the Judgment priorities as a basis for additional
28 allocations of Ag Pool water.

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3 **VI. SAFE STORAGE MANAGEMENT MEASURES**

4 A. Through the facilitation and nondisclosure agreement (FANDA) Watermaster
5 attempted to facilitate an agreement among all parties avoid an accelerated
6 cumulative draw on Excess Carry Over stored water in order to avoid undue risks.
7 SYRA had provisions to establish a mechanism for a safe storage reserve of 130,000
8 AF of water in the non-Supplemental Water storage accounts of the members of the
9 Appropriative Pool as a reserve sufficient to protect the Basin. However, the
10 concern for basin protection was balanced with temporary needs in the event of an
11 emergency or to support Desalter Replenishment. Up to 100,000 AF could be
12 accessed in the event of an emergency subject to conditions

- 13 a) The plan which Watermaster attempted to facilitate is identified in
14 SYRA as “the safe storage reserve and safe storage management plan”
15 or the safe storage management measures (SSMM).
16 b) The City of Chino (Chino) has the largest component of Excess Carry-
17 Over water and was the most significantly affected party.
18 c) Chino refused to agree to SSMM.
19

20 B. The court rejects the adoption of the Safe Storage Management Measures set
21 forth in the SYRA Article 6. The court is not going to set forth the provisions of
22 SYRA Article 6 because the court is rejects the article as a whole.
23

24 C. The court rejects Article 6 of SYRA for the following reasons:

- 25 1. SYRA is not severable as set forth above.
26 2. Watermaster states that access to safe storage in the short term is
27 extremely remote.
28 3. The volume in stored water accounts of Appropriative Pool members is

1 about 357,000 AF as of June 30, 2014.

2 4. The Judgment Parties presently lack the infrastructure capability (wells
3 and pipelines) that would produce the quantity of water from storage that would
4 trigger production from the safe storage reserve that is identified in SYRA.

5 5. Article 6 is essentially a statement of intent without specificity of
6 implementation. The court refuses to consider or authorize an inchoate plan.

7 a) Although Watermaster argues that the Safe Storage Management
8 Agreement provisions are still subject to “stakeholder process get to be
9 initiated” (Watermaster’s Reply to Oppositions to Motion regarding
10 2015 Safe Yield Reset Agreement, Amendment of Restated Judgment,
11 Paragraph 6, page 1, line 18), the court does not approve policy
12 statements and therefore rejects any implementation.

13 6. The Safe Storage Technical Memorandum (Exhibit E to the motion)
14 does not set forth a factual basis for the court to order the parties to proceed with
15 the provisions of Article 6. While the memorandum states that the SSMM will not
16 cause Material Physical Injury or undesirable results, the memorandum does not
17 include that the SSMM are essential to the OBMP.

18 7. The court notes that from 2000 to 2014, the short-term actual measured
19 net recharge was less total rights allocated to the judgment Parties by as much as
20 130,000 AF.

21 a) From this the court concludes that during this period from 2000 to
22 2014, after offsets for production, there was recharge to the basin in
23 excess of what water was actually produced by as much as 130,000 AF.

24 b) This recharge was accounted for in the storage of Excess Carry-Over
25 water.

26 8. The court does not reach the arguments of Chino that the SSMM
27 constitutes a “taking”.

28 9. The safe storage measures are not required by the physical solution of

1 the Judgment, Peace I, Peace II, the court approved management agreements, the
2 OBMP, the court orders of implementation, or Article X, section 2 of the California
3 Constitution.

4
5
6 **VII. The Safe Yield Reset and Ag Pool Water: Recalculation**

7 A. The court finds that the Safe Yield reset to 135,000 AFY is a “recalculation”
8 within the definition of Judgment, Exhibit “H” ¶10.

9 1. SYRA used the term “reset” to describe lowering the Safe Yield to
10 135,000 AFY.

11 a) Now that the court has rejected all of SYRA except the lowering of Safe
12 Yield to 135,000 AFY, the court finds that “reset” is a legally unjustified
13 and legally incorrect term for describing the lowering the Safe Yield to
14 135,000 AFY. For the reasons stated herein, the court finds that
15 lowering the Safe Yield to 135,000 is a recalculation within the
16 definition of Judgment, Exhibit “H” ¶10(a)(1). For the rest of this
17 order, the court will correctly use the term recalculation for lowering the
18 Safe Yield from 140,000 AFY to 135,000 AFY.

19 b) Wildermuth himself calls it a recalculation. Exhibit 1 to his declaration
20 is entitled Declaration of Mark Wildermuth-2013 Chin’o Basin
21 Groundwater Model Update and *Recalculation* of Safe Yield Pursuant to
22 all the Peace Agreements. [Emphasis added.]

23 c) The recalculation to 135,000 is pursuant to the “tenth year” of
24 operation evaluation required by the Judgment.

25 d) Watermaster and the City of Ontario argue to the contrary, but the
26 “reset” lowering of Safe Yield fits any ordinary definition of the word
27 “recalculation.”

28 I) The whole point of the SYRA motion, related motions, and series of

1 hearings has been for the court to determine how to integrate the
 2 reduction of the Safe Yield from 140,000 AFY to 135,000 AFY.
 3 The court finds this reduction to be a recalculation of the Safe Yield
 4 into the current reality of the Chino Basin.

5 (a) In the context of SYRA, the use of the term “reset” might have
 6 made some legal sense. However, now that the court has
 7 rejected everything but the reduction, the label “reset” has no
 8 basis in fact or law.

9 II) The court cannot find any other way to reconcile these provisions and
 10 their interpretations while keeping the ruling consistent with reality.
 11 The reduction in Safe Yield is a recalculation, no matter how subtle the
 12 attorneys’ arguments are.

13 2. Therefore, the court finds and orders that the first 5,000 AFY of any
 14 unproduced Ag Pool water now has a top priority over any other claims, such as
 15 conversion claims and early transfers, and that 5,000 AFY of Ag Pool water be
 16 allocated to Operating Safe Yield pursuant to Judgment Exhibit H ¶10(a).

17 a) This 5,000 AFY has top priority because it is part of the Judgment.

18 b) To further illustrate the court’s orders, based on the tables in sections
 19 IV.B.5 and V.C.5 above

| Example 1-B | Explanation | Comment |
|----------------------------|--------------|--|
| Initial Ag Pool allocation | 82,800 AFY | Judgment |
| Subtract 5,000 AFY | - 5,000 | Safe Yield recalculation reduction pursuant to Judgment Exhibit H ¶10 |
| Ag Pool production/pumping | - 33,600 AFY | Assumption based the current credited production (pumping) for agricultural groundwater is |

| | | |
|---------|-----------|---|
| | | Appropriative Pool pursuant to Peace I and Peace II. |
| Balance | 9,400 AFY | (42,200 acre-feet - 32,800 acre-feet = 14,400 acre-feet. This is the Ag Pool water available for reallocation to Appropriative Pool after subtraction of the recalculation reallocation, the conversion priority claims of 2,000 acre-feet from and the 32,800 Early Transfer of unproduced/unpumped from the allotment of Ag Pool water. |

VIII. Safe Yield Reset and Desalter-Induced Recharge

The court concludes and orders that Desalter-Induced Recharge is only to be applied to offset Desalter production. The court’s analysis involves going back to the basics of the judgment and the Peace Agreements.

A. The Revised Judgment

1. The Judgment ¶I.4.(x) defines “Safe Yield” as “the long-term average annual quantity of groundwater . . . which can be produced from the Basin under cultural conditions of a particular year without causing an undesirable result.”

2. The Judgment ¶I.4.(l) defines “Operating Safe Yield” as “the annual amount of water which Watermaster shall determine, pursuant to the criteria specified in Exhibit “T”, can be produced from Chino Basin by the Appropriative Pool parties free of replenishment obligation under the Physical Solution herein.

a) Exhibit “T” is the Engineering Appendix which has come to include the

1 definitions of Hydraulic Control, Re-Operation water, and Desalter
2 production.

3 3. Judgment Exhibit "H" ¶10 Unallocated Safe Yield Water states:

4 "to the extent that, in any five years, any portion of the share of
5 Safe Yield allocated to the Overlying (Agricultural) pool is not
6 produced, such water shall be available for reallocation to members of
7 the appropriate pool, as follows:

8 (a) Priorities. -Such allocation shall be made in the following sequence:

9 (1) to supplement, in the particular year, water available from
10 Operating Safe Yield to compensate for any reduction in the Safe Yield
11 by reason of recalculation thereof after the tenth year of operation
12 hereunder.

13 (2) pursuant to conversion claims as defined in Subparagraph (b)
14 hereof.

15 (3) as a supplement to Operating Safe Yield, without regard to
16 reductions in Safe Yield.

17
18 B. The 2000 Peace Agreement I

19 1. Peace I Section I(ee) defines "Operating Safe Yield" as the "annual
20 amount of groundwater which Watermaster shall determine, pursuant to criteria
21 specified in Exhibit "I" to the judgment, can be produced from Chino Basin by the
22 Appropriative Pool free of Replenishment obligation under the Physical Solution.
23 Watermaster shall include any New Yield in determining Operating Safe Yield."

24 a) This is a modification of the definition of "Operating Safe Yield" from
25 the Judgment. In fact, the court notes "IV-Mutual Covenants, ¶ 4.5
26 Construction of "Operating Yield" Under the Judgment. Exhibit I to
27 the Judgment shall be construed to authorize Watermaster to include
28 New Yield as a component of Operating Safe Yield."

1
2 C. The 2007 Peace Agreement II

3 1. Article VII Yield Accounting, ¶7.1 New Yield Attributable to the
4 Desalters states “for the initial term of the Peace Agreement, neither Watermaster
5 nor the Parties will request that Safe Yield be recalculated in a manner that
6 incorporates New Yield *attributable to the Desalters* into the determination of Safe Yield
7 so that this source of supply will be available for Desalter Production rather than for
8 use by individual parties to the Judgment.” (Emphasis in original.)
9

10 D. The Safe Yield Recalculation and Desalter-Induced Recharge

11 1. Watermaster correctly states that that desalter induced recharge can
12 only be used to offset desalter production. From this Watermaster concludes that
13 Safe Yield of 135,000 acre-feet per year must include Desalter-induced recharge.
14 This conclusion is wrong.

15 a) Through many avenues, Watermaster has attempted to include
16 Desalter-Induced Recharge (with the new abbreviation of “DIR”)
17 within the definition of Safe Yield.

18 b) Watermaster has never explicitly offered an explanation of why
19 Watermaster has attempted so diligently to convince the court to
20 include Desalter-Induced Recharge within the definition of Safe Yield.

21 I) The court considers that Watermaster’s explanation might include an
22 argument that if Desalter-Induced Recharge is not included within the
23 definition of Safe Yield, the parties could produce/pump water from
24 Desalters without limit, with the result that water could be drained from
25 the Santa Ana River without limit. That result would be not only
26 detrimental to the hydrology of the entire region, but also legally
27 unjustified.

28 c) In its latest argument, Watermaster has offered to “sequester” the

1 portion of Safe Yield attributable to Desalter-Induced Recharge.

- 2 I) The court does not accept this characterization of Desalter
3 production/pumping allocation because it is simply a characterization
4 of an accounting.
- 5 II) The “sequestration” has no basis in the CAMA’s and adds a new, vague,
6 undefined term to an already complicated structure of accounting.
- 7 III) Watermaster argues “that Desalter-Induced Recharge is an inflow
8 to the Basin and therefore a component of Safe Yield.”

9 (a) The court rejects this argument because it contradicts the
10 requirement of Peace II that for the initial term of the Peace
11 Agreement, Safe Yield will not be recalculated to include New Yield
12 attributable to the Desalters.

13 (b) Desalter-Induced Recharge is the source of (and offset to) New
14 Yield attributable to the Desalters. That New Yield cannot be
15 included in Safe Yield. So, so under Peace II, Safe Yield also does
16 not include Desalter-Induced Recharge. (Peace I ¶ 1.1(aa)-definition
17 of New Yield; Peace I ¶7.5-Replenishment Water; Peace II ¶6.2-
18 Peace II Desalter Production Offsets.)

- 19 IV) The Responding AP Members argue that the court can only be
20 consistent in its orders if the court resets the Safe Yield to 115,000
21 AFY. The court also rejects this argument for the following reasons.

22 (a) Using Watermaster's own proposal, the court recognizes that there is
23 some logic to the position of the Responding AP Members because
24 1) if the 20,000 AFY is “sequestered” that it is not available for
25 production/pumping without a replenishment obligation and 2)
26 then the reality is the safe yield should be 135,000 AFY - 20,000
27 AFY for a net of 115,000 AFY.

28 (b) However, the court concludes that the structure set up by the

1 Judgment, Peace I, and Peace II require that there be separate
2 analyses for Safe Yield and New Yield attributable to the Desalters.

3 (i) The analysis for Safe Yield is illustrated in this order Sec. VII.5.a
4 above.

5 (ii) The analysis for Desalter-Induced Recharge and New Yield
6 attributable to the Desalters is described in Peace I and Peace II
7 and the further order as set forth herein.

8 (iii) Watermaster has been accounting for these analyses since 2007,
9 so it should not be a problem for Watermaster to continue to
10 do so.

11 (c) The Responding AP Members also argues that the technical
12 reports show that the basin can safely only sustain 135,000 AFY.

13 (d) However, in Exhibit 1 to the Declaration of Mark Wildermuth -
14 2013 Chino Basin Groundwater Model Update and Recalculation of
15 Safe Yield Pursuant to Peace Agreements, section 1.2.3, “the
16 updated Watermaster Model was used to estimate Santa Ana River
17 Underflow New Yield (SARUNY) from the desalters and
18 reoperation from both the calibration and planning periods.
19 SARUNY means the same thing as that term *Desalter Induced Recharge*
20 as used in the 2015 Safe Yield Reset Agreement.” This definition is
21 repeated in section 7.3.7.

22 (e) The Wildermuth declaration filed March 10, 2017, with the Chino
23 Basin Watermaster Response to February 22, 2017 Order section
24 7.3.7 which states:

25 (i) “The net Santa Ana River recharge in the fiscal year spending
26 July 1999 through June 2000 [one year] is the baseline from
27 which to measure SARUNY, which was estimated to be
28 -2,153 acre-ft/yr, indicating that the Chino Basin discharged to

1 the Santa Ana River more water than was recharged by the River
2 into the Basin. . . . Table 7-10 compares Chino Desalter
3 production and SARUNY over the period of July 2000 through
4 July 2030. . . . The effect of 's the Chino Desalters and
5 reoperation becomes clear in 2005 when SARUNY reaches about
6 50 percent of CDA production. The New Yield results from the
7 implementation of the Chino Desalters is consistent with the
8 planning estimates that were assumed during the development of
9 the Peace Agreements.

- 10 (f) Table 7-10 shows that starting in 2017, the ratio of new yield to
11 CDA production is about an average of 45 percent, meaning that
12 New Yield Desalter-Induced Recharge those years is about 45% of
13 the Desalter production.
- 14 (g) From these facts the court concludes that the Wildermuth Safe Yield
15 reset/recalculation has taken into account the Desalter-Induced
16 Recharge and production, so there is no need to reduce the Safe
17 Yield two 115,000 AFY as argued by the Responding AP Members.
- 18 (h) The Peace Agreement offsets for new yield production attributable
19 to the Desalters are an accounting requirement process, not a feature
20 of determination of Safe Yield.
- 21 (i) The court also concludes that the reset/recalculation has included
22 the contractual features of the Peace Agreements, and one of those
23 features is that Safe Yield not be recalculated to incorporate New
24 Yield attributable to the Desalters. Wildermuth has considered this
25 feature.
- 26 (j) Again, therefore the safe yield of 135,000 AFY does not include
27 New Yield attributable to the Desalters.

28 2. The court still concludes for the term of Peace I (*i.e.*, until 2030), Safe

1 Yield not be recalculated in a manner that incorporates New Yield attributable to the
2 Desalters into the determination of Safe Yield.

3 a) The 20,000 AFY of Desalter-Induced Recharge is not included with the
4 definition of Safe Yield for the term of the Peace Agreements. To rule
5 otherwise would contradict the Peace Agreements.

6 b) The court analogizes its ruling to the controlled overdraft allowed to
7 achieve hydraulic control. That aspect of production/pumping was not
8 allocated to Safe Yield. The court orders that Desalter-Induced
9 Recharge New Yield remain unallocated to Safe Yield.

10 c) The court does not address the City of Chino's briefing regarding the
11 Safe Yield Implementation Replenishment Accounting Illustration (Per
12 Peace II agreement, Section 6.2 (PIIA, 6.2) and June 11, 2015 Key
13 Principles) Watermaster motion filed October 23, 2015, Exhibit "F"
14 Attachment 2 for the following reasons:

15 I) Chino asks if the Column G – Desalter-Induced Recharge
16 replenishment water was coming from Desalter production.

17 II) Footnote 4 for this Column G states that "the desalter-induced
18 recharge projection in the table is now shown at 50% of the annual total
19 desalter production for years 2015 through 2030. Desalter -induced
20 recharge from 2001 to 2014 (187,000 acre-feet) will be deemed Safe
21 Yield and not available to offset Desalter production."

22 III) As part of its order that SYRA cannot be implemented, the court
23 rejects the Safe Yield Reset Implementation Desalter Replenishment
24 Accounting Illustration.

25 IV) The City of Ontario has argued that Desalter Induced Recharge
26 to offset Desalter production should be "backfilled" from Safe Yield.
27 The court rejects this argument for the following reasons:

28 (a) This is merely a characterization of what SYRA proposed to do, and,

1 for the reasons already stated, the court has rejected SYRA except
2 for the Safe Yield recalculation.

3 (b) The Judgment, the Peace Agreements, and the CAMA's do not
4 support this accounting, again for the reasons already stated.

5 (c) Again, for the reasons stated herein, the court rejects that Ontario's
6 argument that a Safe Yield recalculation to 135,000 AFY is not a
7 "Safe Yield recalculation." The argument has no merit and is
8 completely unpersuasive.

9 (d) The court finds that the definitions of Safe Yield and New Yield are
10 sufficiently set forth in the Judgment, Peace I and Peace II.

11 (i) Watermaster does not point to any specific conflict between the
12 court's current/instant order and the court's order implementing
13 Watermaster Resolution 07-05, and the court finds none.

14 (ii) The court reaffirms the definitions of Peace II which have been
15 in effect for 10 years, and of course the definitions of the
16 Judgement and Peace I.

17 (iii) The court finds no basis for Watermaster's attempt to define
18 Desalter-Induced Recharge into directly, indirectly, Safe Yield or
19 by a "sequester."

20 (iv) In reaffirming the definitions of the Judgment, Peace I, and
21 Peace II, the court of course also notes the definition of "Safe
22 Yield" in the Judgment ¶I.1(x) inclusive of "undesirable result,"
23 and the "Material Physical Injury" of Peace I ¶I.1 (y).

24 V) The court finds and orders that Desalter production is not Safe Yield
25 and Desalter production is to be offset only as provided in Peace II.
26
27

28 **IX. Additional Bases for Rulings**

1 A. The court has refused to implement the sections of SYRA identified above for
2 the reasons set forth above. In the court's view, those reasons are sufficient under
3 the law. Therefore, the court has not addressed other objections raised by the
4 parties, such as those of the City of Chino, that Watermaster has failed to prove a
5 change in circumstances, that Watermaster has improperly advocated for certain
6 parties, that the parties are collaterally estopped from re-litigating the parties' rights,
7 that the parties are equitably estopped from reducing their replenishment obligations,
8 that SYRA fails to comply with CEQA, that SYRA provisions resulted in an unlawful
9 taking of Chino's property.

10
11 B. Although the court understands the necessity of accounting for Desalter
12 induced recharge from the Santa Ana River, the court does not find a basis in the
13 law, the Judgment, or the Court Approved Management Agreements for
14 simultaneously reducing Safe Yield and adding unproduced/unpumped Ag Pool
15 water to account for Desalter induced recharge.

16 1. Watermaster argues that the court should approve SYRA because it is
17 only a confirmation of "interpretation of the manner in which Watermaster should
18 comply with the provisions of the Court Approved Management Agreements.
19 (Watermaster's Reply to Oppositions to Motion regarding 2015 Safe Yield Reset
20 Agreement, Amendment of Restated Judgment, Paragraph 6, page 10, line 26.)

21 a) The court does not accept this argument. The court interprets SYRA as
22 an attempt for a major qualitative revision of the Court Approved
23 Management Agreements, but the Court Approved Management
24 Agreements do not support the SYRA revision for the reasons stated
25 herein.

26 2. The court finds that the rulings herein will not cause material physical
27 injury or an undesirable result.

28 a) Although many parties have approved SYRA, parties' approval or

1 disapproval of SYRA is not a legal basis for the court to enforce SYRA.
2 The court must look to the previous agreements of the parties, the
3 previous court orders, the Court A6pproved Management Agreements,
4 the Judgement, and the California Constitution.

5
6 Date: _____

7
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9 _____
10 Judge Stanford E. Reichert
11 San Bernardino County 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 April 24, 2017 I served the following:

1. NOTICE OF RULINGS AFTER HEARING ON WATERMASTER'S MOTION REGARDING 2015 SAFE YIELD RESET AGREEMENT, AMENDMENT OF RESTATED JUDGMENT, PARAGRAPH 6

/ 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

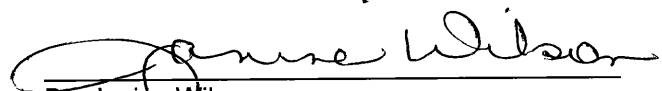
/ ___ / BY PERSONAL SERVICE: I caused such envelope to be delivered by hand to the addressee.

/ ___ / 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 28, 2017 in Rancho Cucamonga, California.


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Chino Basin Watermaster

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