

APPENDIX F
**WHITE PAPER – “Is the San Fernando Groundwater
Basin Undergoing a Long – Term Decline in Storage?”**
(ATTACHMENTS ON FILE IN ULARA WATERMASTER OFFICE)

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES

12 THE CITY OF LOS ANGELES,

13 Plaintiff,

14 v.

15 CITY OF SAN FERNANDO, et al.,

16 Defendants.

Case No. C650 079

NOTICE OF LODGING OF
WATERMASTER WHITE PAPER RE:
QUARTERLY STATUS
CONFERENCE

Conference:

Date: April 27, 2007
Time: 8:30 a.m.
Dept: 52

Before the Hon. Susan Bryant-Deason

1 NOTICE IS HEREBY GIVEN that the court-appointed Watermaster hereby
2 lodges with the Court the attached White Paper in connection with the quarterly Upper Los
3 Angeles River Area Watermaster status conference scheduled for April 27, 2007, in
4 Department 52 of the above-entitled Court.

5
6 DATED: March 23, 2007

NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP
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9 By: 

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PROOF OF SERVICE

The undersigned declares:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action; my business address is c/o Nossaman, Guthner, Knox & Elliott, LLP, 445 S. Figueroa Street, 31st Floor Los Angeles, California. 90071-1602.

On March 23, 2007, I served the foregoing **NOTICE OF LODGING OF WATERMASTER WHITE PAPER RE: QUARTERLY STATUS CONFERENCE** on parties to the within action by placing () the original (x) a true copy thereof enclosed in a sealed envelope, addressed as shown on the attached service list.

(XX) (By U.S. Mail) On the same date, at my said place of business, said correspondence was sealed and placed for collection and mailing following the usual business practice of my said employer. I am readily familiar with my said employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service, and, pursuant to that practice, the correspondence would be deposited with the United States Postal Service, with postage thereon fully prepaid, on the same date at Los Angeles, California.

() (By Facsimile) I served a true and correct copy by facsimile pursuant to C.C.P. 1013(e), to the number(s) listed on the attached sheet. Said transmission was reported complete and without error. A transmission report was properly issued by the transmitting facsimile machine, which report states the time and date of sending and the telephone number of the sending facsimile machine. A copy of that transmission report is attached hereto.

() (By Overnight Service) I served a true and correct copy by overnight delivery service for delivery on the next business day. Each copy was enclosed in an envelope or package designated by the express service carrier, deposited in a facility regularly maintained by the express service carrier or delivered to a courier or driver authorized to receive documents on its behalf, with delivery fees paid or provided for, addressed as shown on the accompanying service list.

Executed on March 23, 2007.

(XX) (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

() (FEDERAL) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.


Charlynn Jones

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UPPER LOS ANGELES RIVER AREA WATERMASTER

CITY OF LOS ANGELES VS. CITY OF SAN FERNANDO, ET AL
CASE NO. 650079 - COUNTY OF LOS ANGELES

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March 22, 2007

The Honorable Susan Bryant-Deason
Judge of the Los Angeles County Superior Court
111 N. Hill Street, Dept. 52
Los Angeles, CA 90012

Dear Judge Bryant-Deason:

Subject: Meeting on April 27, 2007 to discuss the Decline in Storage in the San Fernando Groundwater Basin (basin)

At our last meeting with the Court on December 13, 2006 you generously offered to spend some time with the Watermaster and the Cities of Los Angeles, Burbank, and Glendale (Cities) to discuss the decline in groundwater storage in the basin during our next meeting on April 27.

As Watermaster for the Upper Los Angeles River Area (ULARA), I have been regularly informing the Court and the Cities regarding my growing concern over declining water levels and accumulating groundwater pumping credits in the basin.

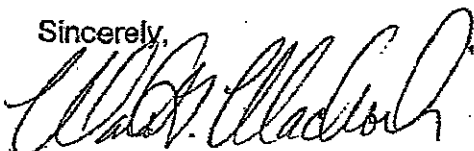
In July 2005, I distributed a DRAFT White Paper to the Cities titled "Is the San Fernando Groundwater Basin Undergoing a Long-Term Decline in Storage?" describing the problems, causes, and some possible solutions. Since then, we have been meeting with the Cities in an attempt to resolve these issues.

In preparation for the April 27 meeting, I feel it is appropriate to share the enclosed White Paper with the Court so that you may become more familiar with the background and details regarding the decline in storage.

We look forward to meeting with you at 8:30 a.m. on April 27, 2007 to explore the challenges we face regarding the decline in groundwater storage in the basin.

If you have any questions or comments, please call me at (213) 367-0896.

Sincerely,



MARK G. MACKOWSKI
ULARA Watermaster

MGM:mm

c:

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Mr. Peter Kavounas, City of Glendale
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Is the San Fernando Groundwater Basin Undergoing a Long-Term Decline in Storage?

by

Mark Mackowski, ULARA Watermaster

March 2007

Executive Summary

This report addresses the long-term decline in storage in the San Fernando Groundwater Basin (hereinafter SFB or "basin") caused by over-pumping due to an excessive allocation of water rights; reduced natural and artificial recharge; unaccounted underflow and rising groundwater leaving the basin; and unaccounted or under-accounted pumping by third parties. It also addresses the large accumulation of stored water credits for which there is insufficient actual water in storage, and makes recommendations to reverse these trends.

The Watermaster has discussed this issue in the Annual Watermaster Report for the last four years; has informed and updated the Court during the last two years; and in July 2005 presented a draft of this paper to the Cities of Los Angeles, Burbank, and Glendale (hereinafter "parties"). Subsequently, several workshops were held with the parties to answer their questions and discuss potential solutions.

The parties have responded by proposing to study several projects to increase long-term artificial recharge of the basin. The Watermaster fully supports those studies, but does not believe that the current proposed projects will be either timely enough or adequate to completely address the serious and ongoing decline in storage and avoid the potential for the basin to re-enter overdraft.

Introduction

This paper addresses the question: "Is the San Fernando Groundwater Basin undergoing a long-term decline in storage?"

Plate 13 (Attachment 1) of the 2004-05 Annual Watermaster Report illustrates the change in storage in the SFB between 1928 and Fall 2005.

It is clear that the SFB has experienced a progressive decline of real water in storage (Plate 13 blue line) since 1928. The decline began in 1944, and overdraft was eventually declared beginning in 1954 when water in storage had reached 210,000 acre-feet (AF) below the 1928 level. Litigation over water rights commenced in 1955, and continued until 1979 when the Judgment was entered. Section 4.2.6.1 of the Judgment states that the SFB "...remained in overdraft continuously until 1968, when an injunction became effective. Thereafter, the basin was placed on safe yield operation." (Safe yield operation means that extractions from the basin do not exceed recharge on a long-term average.) When safe yield operation was ordered by the Court in 1968 the basin was 655,370 AF below the 1928 level.

From 1968 until 1977, the amount of real water in storage (Plate 13 blue line) declined an additional 40,210 AF, to 695,580 AF below the 1928 level, despite the fact that the basin was supposedly under safe yield operation. Fall 1977 was the historically lowest level of basin storage.

Plate 13 shows a sharp increase in stored water beginning in 1977, suggesting that the basin began to recover. However, a large portion of the increase was due to water imported by Los Angeles to the SFB from outside sources such as the Owens Valley and spread at Tujunga Spreading Grounds, and was not part of the safe yield of the basin. Table 2-22 from Watermaster Relevant Data (Attachment 2) shows spreading from 1968-2005. Under the column "City of Los Angeles - Tujunga", 142,457 AF were spread from 1977-1987. Therefore, because Plate 13 (blue line) does not differentiate between various water sources that recharge the basin, the water level increase beginning in 1977 *does not* represent a significant recovery of the basin.

Furthermore, beginning in the late 1970s, groundwater extractions began to decline as a result of the decision in San Fernando that restricted pumping, especially by Glendale and Burbank, followed in the early 1980s by the discovery of widespread groundwater contamination that affected all the parties' ability to pump their full adjudicated rights (Relevant Data Table 2-1, Attachment 3). As a result, stored water credits began to accumulate rapidly, and continue to accrue whenever a party does not pump its full right. As of October 1, 2005 a combined total of 410,033 AF of stored water credits in the SFB belonged to Los Angeles, Burbank, and Glendale.

Section 8.2.10 of the Judgment requires the effects of stored water to be excluded from consideration when evaluating the safe yield. Judgment Section 8.2.10 states, "Upon request of the Administrative Committee, or on motion of any party and subsequent Court order, Watermaster shall recalculate safe yield of any basin within ULARA. If there has been a material long-term change in storage over a base period (excluding any effects of stored water) in San Fernando Basin the safe yield shall be adjusted by making a corresponding change in native safe yield of the basin."

The graph shown in red on Plate 13 is the result of subtracting stored water credits from the change in storage shown in blue, as required by Judgment Section 8.2.10. When stored water credits are subtracted from the change in storage, the basin is 914,508 AF below the 1928 level, and 259,138 AF below the 1968 level when safe yield operation was required to be implemented.

In summary, Plate 13 clearly shows that the SFB is undergoing a long-term decline in storage that is temporarily interrupted during above-normal rainfall or below-normal pumping. However, spread imported water from 1977-1987 and an ongoing large accumulation of stored water credits obscures this decline.

Import Return Credits

Import return water is defined by the Judgment as "Ground water derived from percolation attributable to delivered imported water."

The Judgment allows the parties to recapture a portion of delivered imported water based on the reasonable assumption that some of it percolates into the aquifer and is available for pumping once it reaches the groundwater table. This water accrues to the parties as import return credits using formulas provided in Section 5.2.1.3 of the Judgment.

The California Supreme Court decision (1975, Vol. 14-3d, p. 261-262, Attachment 4) states, "Defendants contend that if any party is given rights to a return flow from delivered *imported* water, it is 'obvious' and 'axiomatic' that the same rights should be given to the return flow from delivered water derived from all other sources, including native water extracted from local wells. This argument misconceives the reason for the prior right to return flow from imports. Even though all deliveries produce a return flow, only deliveries derived from imported water add to the ground supply...Returns from deliveries of extracted native water do not add to the ground supply but only lessen the diminution occasioned by the extractions."

Despite the unequivocal language in the Supreme Court decision, the Cities of Los Angeles, Burbank, and Glendale negotiated an agreement to use *all* delivered water in the formulas for calculating import return credits. In the "Memorandum re Proposed Settlement with Cities of Glendale and Burbank, City of Los Angeles v. City of San Fernando, et al., and Damage Cases" dated November 22, 1978, Item 4 on page 5 (Attachment 5) states, "A fixed formula for determining Glendale and Burbank rights to return flow from delivered imported water, including recirculation rights, as being equivalent to 20% of all delivered water in the immediate watershed of the San Fernando Basin. This has been determined to be a better administrative method than the method based on 20.8% of delivered imported water to valley-fill lands, which method was presented to the Supreme Court and approved by that Court in this case. Los Angeles' return flow rights will be determined by a comparable fixed formula, also somewhat a [sic] variance with the Supreme Court language, but consistent with simple future administration."

Furthermore, the language in the Judgment addressing import return credits is contradictory and appears to have been influenced by the aforementioned agreement. Section 5.2.1.1 states, "Each of said parties has a right to extract from San Fernando Basin that portion of the safe yield attributable to such import return waters." Section 5.2.1.3 states, "The extraction rights of Los Angeles, Glendale, and Burbank...shall only extend to the amount of any accumulated import return water credit of such party by reason of imported water delivered after September 30, 1977." The foregoing language is consistent with the Supreme Court decision, and implies that only delivered waters that are imported from outside the basin (such as from the Los Angeles/Owens Valley Aqueduct and the Metropolitan Water District) would

qualify for import return credits. However, the formulas in Judgment Section 5.2.1.3 for calculating import return credits apparently contradict the Supreme Court decision, namely, "Los Angeles: 20.8% of all delivered water...Burbank: 20.0% of all delivered water...Glendale: 20.0% of all delivered water..."

Since 1979 the Watermaster Office has used the latter, more generous interpretation of the Judgment, giving the parties import return credits for *all* water delivered to their applicable service areas regardless of its source. This has caused the pumping of groundwater that would not have been allowed under the Supreme Court decision, and has also contributed to the accumulation of a large amount of stored water credits that are not supported by actual water in storage.

Thus, the Supreme Court decision and the technical issues related to basin hydrology were misunderstood, or not fully considered, in an effort to simplify the administration of the parties' rights, resulting in excessive groundwater pumping and an accumulation of pumping credits for which there is insufficient actual water in storage.

Changed Conditions in the SFB

Probable causes of the decline in storage also include changes in land and water use in the SFB.

The Report of Referee (1962) was accepted as prima facie evidence in San Fernando. Data for the Report of Referee was obtained in the late 1950s and early 1960s, which was used to calculate the safe yield of the SFB.

At that time, a significant portion of the land in the San Fernando Valley was still being used for agricultural purposes, or had not yet been developed. Rainfall runoff and irrigation water had a much better opportunity to percolate and re-enter the groundwater basin compared to the present, when much of the land has subsequently been developed and covered by rooftops, sidewalks, streets, and other "hardscape".

In addition, at the time the Report of Referee was prepared sewers had not yet been installed in much of the San Fernando Valley, and overflow from cesspool/septic systems was a significant source of recharge to the basin aquifer. During the 1956-57 Water Year, the Report of Referee estimated that 16,750 acre-feet per year (AF/Y) re-entered the groundwater basin from septic systems located in the SFB west of Burbank (Appendix N, Table N-7, p. N-32). Nearly everywhere in the SFB septic systems have been replaced by sewers, with a resulting decrease in recharge from this source. This has had the beneficial effect of eliminating a significant source of nitrate contamination, but has also contributed to the decline in storage. We have observed a similar phenomenon in the Verdugo Basin.

Present-day land and water use have changed in the intervening 40-50 years since the Report of Referee was researched and written, but provisions in the Judgment require the basin to be managed as if those conditions still exist.

Reduced Artificial Recharge

Artificial recharge capacity has declined in the basin during the past 20-25 years. 'Artificial recharge' means collecting rainfall runoff or imported water and percolating it into the groundwater basin at spreading grounds designed for that purpose.

Headworks Spreading Grounds (Headworks) is located on the Los Angeles River near Griffith Park. Headworks was operated until the early 1980s, when volatile organic compound (VOC) contamination was discovered in the underlying groundwater, and treated sewage effluent began to be discharged from Tillman Treatment Plant into the Los Angeles River. Headworks has not been used as a spreading ground since approximately 1982.

In the late 1990s, methane gas was detected at a school adjacent to the Sheldon-Arleta Landfill (SAL) and Tujunga Spreading Grounds (TSG). When stormwater is spread heavily at TSG, it compresses the air within the underlying vadose zone. Some of this air moves laterally and displaces methane gas from the adjacent SAL. The methane migrates out of the SAL, and some of it surfaces in the nearby neighborhood. To control this methane migration, spreading at TSG has been restricted to less than 100 cubic feet per second (cfs), or about 40% of the historic spreading capacity of 250 cfs. When storms produce runoff in excess of 100 cfs in the adjacent Tujunga Wash, this extra water cannot be diverted into TSG and is instead wasted to the ocean.

In addition, during past wet years, the Los Angeles County Department of Public Works (LACDPW) has curtailed spreading at Hansen Spreading Grounds (HSG) to prevent rising groundwater from inundating trash in the nearby Bradley Landfill. Alert levels were established nearby monitoring wells to monitor groundwater levels near the landfill. During the exceptionally wet winter of 2004-05 these alert levels were reached and spreading at HSG was stopped for a while, resulting in additional runoff being wasted to the ocean.

As a result of the elimination of Headworks and reduced spreading at TSG and HSG, a significant amount of stormwater runoff cannot be recharged into the SFB and is wasted to the ocean, especially during above-average rainfall years.

Safe Yield and Native Safe Yield

Safe Yield is defined by the Judgment as "The maximum amount of water which can be extracted annually from a ground water basin under a given set of cultural conditions and extraction patterns, based on the long-term supply, without causing a continuing reduction of water in storage."

Safe yield in the SFB consists of two parts: the aforementioned import return credits, and the native safe yield consisting of "native water", which the Judgment defines as "Surface

and ground waters derived from precipitation within ULARA". The Judgment affirmed Los Angeles' exclusive Pueblo water right to all native groundwater in the SFB.

The safe yield and native safe yield of the basin were determined to be 90,680 AF/Y and 43,660 AF/Y, respectively, in 1964-65 (Judgment Section 4.2.4) but have not been re-evaluated since then.

Each year, the Judgment gives Los Angeles a native safe yield pumping credit of 43,660 AF/Y based on studies performed for the Report of Referee. In dry years, it is doubtful whether 43,660 AF actually recharge the SFB. In wet years the amount can be substantially larger. The long-term average native recharge is unknown. However, as previously mentioned, the hydrologic conditions that existed when the Report of Referee was written may no longer be present in the SFB today.

If the long-term native safe yield is lower than 43,660 AF/Y, it would contribute proportionally to the decline in storage we observe on Plate 13 (blue line) and an increase in stored water credits (Plate 13 red line) for which there is insufficient water in storage.

Basin Losses from Rising Groundwater and Underflow

Groundwater constantly flows out of the basin in two ways: via underflow in the Los Angeles River Narrows area, and through groundwater rising into the Los Angeles River channel that subsequently leaves the SFB as surface flow. (The City of Los Angeles recognized this, and constructed the Pollock Wells Treatment Plant to reduce the amount of excess rising groundwater leaving the basin by pumping and treating groundwater in the Narrows that is contaminated with VOCs.)

The average annual loss due to rising groundwater was approximately 3,442 AF/Y from 1979-2005. The average annual loss due to underflow through the Narrows area was approximately 400 AF/Y. The total average loss from the basin was therefore approximately 3,842 AF/Y from 1979-2005.

Although Judgment Section 8.2.9 requires the Watermaster to "...record and verify additions, extractions and losses..." there is no clear mechanism in the Judgment to debit the parties for groundwater that leaves the basin in ways other than through pumping. With the exception of minor losses debited from Los Angeles due to under-pumping at the Pollock Wells, losses due to rising groundwater and underflow have never been debited from the parties.

In summary, stored water credits accumulate indefinitely until they are pumped by the parties, but a portion of the actual groundwater is constantly leaving the SFB unaccounted through underflow and rising groundwater.

Hill and Mountain Pumping

Unauthorized pumping in the hill and mountain areas tributary to the SFB reduces the amount of underflow from these regions to the basin. The City of Los Angeles claims this native water as part of its Pueblo water right, and the Watermaster has begun a program to identify these pumpers, quantify their water use, and require them to enter a water license agreement with Los Angeles. Under the license agreement, licensees report their pumping to the Watermaster Office and pay Los Angeles for the amount pumped, and the Watermaster debits Los Angeles. There are unauthorized pumpers who do not have license agreements and who do not report their pumping to the Watermaster Office.

Dewatering

There are areas within the SFB that have a high water table. Projects within these areas sometimes pump groundwater to maintain dry excavations during construction. In addition, there are some dewatering operations that keep subterranean parking and other below-ground structures dry on a permanent basis. This water is typically discharged to the storm drain or sewer, and is thereby lost from the basin. The Watermaster has identified several permanent dewatering systems, and the owners of these properties report their pumping monthly to the Watermaster Office. However, our efforts to institute a reliable program to account for temporary construction dewatering within the basin have not been effective.

Conclusions

The Watermaster has historically calculated import return credits based on all delivered water. This is clearly inconsistent with the Supreme Court decision, and in the Watermaster's opinion is the single largest contributor to the imbalance between actual water in storage and the parties' stored water credits. The 1978 agreement among all three parties with respect to import return credits departed from the Supreme Court decision (Attachment 5) and, as applied under today's circumstances, is seemingly inconsistent with Section 5.2.1.1 of the Judgment.

Furthermore, import return credits of 20% may have been appropriate for hydrologic conditions in the late 1950s and early 1960s, but may now be too high considering the urbanization that has occurred in the San Fernando Valley during the last 40-50 years. However, Section 7.1 of the Judgment explicitly precludes the Watermaster, or even the Court, from modifying these formulas.

Although real water in storage has increased by 150,895 AF since safe yield operation was declared in 1968, stored water credits have accumulated to 410,033 AF since 1978. When stored water credits are subtracted from real storage (Plate 13 red line), the SFB is more than 914,000 AF below the 1928 level.

In other words, if the parties had pumped their full adjudicated rights, the basin would be more than 259,000 AF below the 1968 level at which safe yield operation was supposed to begin (Plate 13).

This clearly indicates that groundwater rights in the SFB are significantly "oversubscribed", and the basin is undergoing a long-term decline in storage that is effectively masked by the accumulation of stored water credits. An argument could be made that the basin re-entered a condition of overdraft in the late 1980s when the red line fell below the 1968 level.

The general downward trend of the change in real storage (Plate 13 blue line), beginning in the early 1980s and interrupted only temporarily during wet years, is also disturbing. Although we observed a significant rebound in basin storage in the 2004-05 Water Year due to above-normal rainfall and below-normal pumping by Los Angeles, similar occurrences in the past suggest that this effect will be temporary and short-lived.

The downward trend in real storage coincides with the cessation of spreading at Headworks Spreading Grounds in the early 1980s and has accelerated with a significant reduction of spreading capacity at Tujunga Spreading Grounds due to the migration of methane gas from the nearby Sheldon-Arleta Landfill. The decline in actual storage due to reduced basin recharge has been exacerbated because the parties have received pumping rights since their negotiated settlement in 1978 that the basin cannot support.

Recommendations

The Watermaster recommends that the safe yield of the SFB be re-evaluated. The 1979 San Fernando Judgment was based on a safe yield study conducted in 1964-65, more than 40 years ago. At that time, the SFB safe yield was calculated to be 90,680 AF/Y. However, basin hydrology can change significantly over time, and we do not know the existing safe yield of the SFB. If we are to resolve this problem and manage the basin properly in the future it is imperative that we re-evaluate the safe yield of the SFB, and continue to re-evaluate it periodically.

As a component of the safe yield, the native safe yield of 43,660 AF/Y may be too large, which would contribute to a continuing decline in stored water and exacerbate the imbalance between actual water in storage and stored water credits. A safe yield study, as recommended above, would determine whether the existing native safe yield is appropriate for current hydrologic conditions in the SFB.

The parties and the Watermaster could agree to allocate pumping rights consistent with the language and intent of the Supreme Court decision, namely, giving the parties import return credits only for the amount of *imported* water served to their customers.

Or, following a safe yield re-evaluation, the Watermaster could implement Judgment Section 8.2.10 to correct any imbalance in the basin by adjusting the native safe yield of the SFB. This solution would affect only Los Angeles' water rights, since it has the

exclusive right to the entire native safe yield of the SFB under its Pueblo right. However, it is the Watermaster's opinion that implementing Section 8.2.10 of the Judgment in this manner would fail to address the major hydrologic cause of the current imbalance, and that the parties would continue to be given rights to water that are inconsistent with the Supreme Court decision.

A hydrologic study should be performed in the Narrows area to determine the actual amount of water lost due to underflow and excess rising groundwater, and the Watermaster and the parties should consider ways to account for this lost water. To that end, in March 2007 the ULARA Administrative Committee requested the Watermaster to conduct a study to determine ways to improve the methodology for the calculation of losses from the basin due to rising groundwater and underflow. While it is not practical to stop all rising groundwater and underflow, keeping water levels low in the Narrows through diligent pumping and monitoring would minimize these losses. As a related matter, Los Angeles should operate the Pollock Wells Treatment Plant at least 2,000 AF/Y to reduce the amount of rising groundwater that leaves the basin.

Tujunga Spreading Grounds should be restored to its full capacity without delay. Additional spreading and/or storage facilities, such as Boulevard Pit, should be acquired whenever possible. They may not be needed during dry-to-normal rainfall years, but their additional capacity would be invaluable during years when runoff exceeds our ability to store it using existing infrastructure.

Modernizing and upgrading facilities and operations at the spreading grounds might result in increased basin recharge. The Watermaster, LADWP, and LACDPW have begun to explore these opportunities within the framework of the Basin Recharge Task Force.

The parties and Watermaster should take advantage of opportunities such as the upcoming Los Angeles River Revitalization Master Plan to build projects that enhance basin recharge.

Hill and mountain pumping should be fully accounted. It may not be politically feasible to restrict it, but it is probably a component, albeit a small one, of the decline in stored water in the basin.

Likewise, permanent and temporary construction dewatering should be fully accounted. The Watermaster and the cities of Los Angeles, Burbank, and Glendale should develop a program to more closely track water lost from the basin due to dewatering.

It is the duty of the Watermaster to inform the parties and the Court about issues affecting the groundwater basins in ULARA. We look forward to working closely with the parties to reverse the decline in storage and ensure the long-term reliability of the SFB.

APPENDIX G
INTERIM AGREEMENT FOR THE PRESERVATION OF
THE SAN FERNANDO BASIN WATER SUPPLY, 2008

ORIGINAL

DEPT #52

FILED
LOS ANGELES SUPERIOR COURT

OCT -2 2007

JOHN A CLARKE CLERK
BY M J FOLLINGS, DEPUTY

NO FEE - GOVT CODE SEC. 8103
AMOUNT RECOVERABLE PURSUANT
TO 8103.5 GC §
PLUS A ONE TIME ADMINISTRATIVE FEE UPON JUDGMENT
IF THE PARTY BECOMES A JUDGMENT CREDITOR.

- 1 SCOTT S. SLATER (SBN 117317)
2 STEPHANIE OSLER HASTINGS (SBN 186716)
3 HATCH & PARENT, A Law Corporation
4 21 E. Carrillo Street
5 Santa Barbara, CA 93101
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9 SCOTT H. HOWARD, City Attorney (SBN 71269)
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- 15 CITY OF BURBANK
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- 22 Attorneys for Defendants CITY OF BURBANK and CITY OF GLENDALE
- 23 CITY OF LOS ANGELES
24 ROCKARD J. DELGADILLO, City Attorney
25 RICHARD M. BROWN, General Counsel,
26 Water and Power
27 JULIE CONBOY RILEY, State Bar No. 197407
28 Deputy City Attorney
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P.O. Box 5111
Los Angeles, California 90051-0100
Telephone: (213) 367-4513
Facsimile: (213) 367-4588
- Attorneys for Plaintiff, CITY OF LOS ANGELES

RECEIVED

SEP 25 2007

A. Caballero

A. Caballero

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

THE CITY OF LOS ANGELES,

Plaintiff,

vs.

CITY OF SAN FERNANDO, et al.,

Defendants.

CASE NO. C 650 079

Assigned for All Purposes to the
Honorable Susan Bryant-Deason

**STIPULATION AND [PROPOSED]
ORDER RE. INTERIM AGREEMENT
FOR THE PRESERVATION OF THE
SAN FERNANDO BASIN WATER
SUPPLY**

1 This Stipulation re. Interim Agreement for the Preservation of the San Fernando Basin
2 Water Supply ("Stipulation") is entered into this 19th day of Sept., 2007, by and among
3 the City of Los Angeles, the City of Glendale and the City of Burbank (individually, "Party," and
4 collectively, the "Parties"), all of whom are parties to this action, with reference to the following
5 facts:

6 WHEREAS, on September 20, 2007, the Parties have entered into the *Interim Agreement*
7 *for the Preservation of the San Fernando Basin Water Supply* ("Agreement"), a true and correct
8 copy of which is attached hereto as Exhibit A.

9 WHEREAS, the Agreement is consistent with the 1979 judgment entered by stipulation in
10 this action ("Judgment").

11 NOW, THEREFORE, the Parties hereby stipulate as follows and respectfully request that
12 the Court enter the proposed Order submitted herewith:

13 The Parties stipulate that they have entered into the Agreement, the terms of which are
14 hereby adopted and incorporated by this reference as though fully set forth herein.

15 The Parties further stipulate that the terms of the Agreement shall be judicially enforceable.

16 The Parties further stipulate to, and request that, the Court enter an order the terms of which
17 are the same as the Agreement.

18 IN WITNESS WHEREOF, this Stipulation is entered into as of the first date set forth
19 above.

1 Dated: Sept. 20, 2007

HATCH & PARENT, A LAW CORPORATION

2
3 BY Amy Stemfeller FOR:
4 SCOTT S. SLATER
5 STEPHANIE OSLER HASTINGS
6 ATTORNEYS FOR DEFENDANTS, CITY
7 OF BURBANK AND
8 CITY OF GLENDALE

9 Dated: Sept 24, 2007

CITY OF BURBANK

10 By: [Signature]
11 Carolyn A. Barnes

12 Dated: Sept. 24, 2007

CITY OF GLENDALE

13 By: [Signature]
14 Christine A. Godinez

15 Dated: 24 Sept., 2007

CITY OF LOS ANGELES

16 ROCKARD J. DELGADILLO, City Attorney
17 RICHARD M. BROWN, General Counsel,
18 Water and Power
19 JULIE CONBOY RILEY, Deputy City Attorney

20 By: [Signature]
21 Julie Conboy Riley

**INTERIM AGREEMENT
FOR THE PRESERVATION OF THE SAN FERNANDO BASIN
WATER SUPPLY**

This Interim Agreement for the Preservation of the San Fernando Basin Water Supply (Agreement) is entered into as of _____, 2007 between and among the City of Los Angeles acting by and through the Los Angeles Department of Water and Power (Los Angeles), the City of Glendale, a municipal corporation (Glendale) and the City of Burbank, a municipal corporation (Burbank) (each a Party and collectively, the Parties), with reference to the following facts and intentions, which the Parties agree are true and correct to the best of their knowledge and belief:

RECITALS

A. The Parties are parties to the 1979 judgment entered by stipulation in *City of Los Angeles v. City of San Fernando* (California Superior Court Case No. 650079) (the Judgment). Each Party holds rights in and to the San Fernando Basin (Basin), one of the several groundwater basins subject to the Judgment, as set forth in the Judgment. The Parties are also all of the voting members of the Administrative Committee of the Basin, which is authorized by Section 8.3 of the Judgment.

B. The Basin has been, and continues to be, operated in accordance with the terms and conditions of the Judgment. The Superior Court of the County of Los Angeles (Court) retains continuing jurisdiction over the Judgment and the parties to it.

C. On March 23, the Upper Los Angeles River Area Watermaster (Watermaster), which is authorized by Section 8 of the Judgment to assist the Court in its administration and enforcement of the provisions of the Judgment, filed a White Paper with the Court expressing two concerns that the Parties seek to redress by agreement: (i) a reduction in the stored water in the Basin; and (ii) the accumulation of Stored Water credits, as that term is defined in Section 5.2 of the Judgment, by the Parties in excess of the quantity of water available to be pumped by them.

D. The Parties wish to enter into this Agreement to promote a physical solution to the observed falling groundwater levels by promoting artificial replenishment of the Basin in a manner that ensures the viability of the Basin as a long-term reliable water supply. The Parties also wish to enter into this Agreement to provide interim guidelines on the Parties' exercise of their Stored Water credits so as to avoid harm to the Basin.

E. The Parties wish to coordinate their actions to circumvent unnecessary and potentially protracted litigation over the meaning and implementation of the Judgment.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into the operative provisions of this Agreement by this reference, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the PARTIES HERETO AGREE as follows:

1. **Purpose.** The purpose of this Agreement is to address two issues: (a) reduction in the stored groundwater in the Basin; and (b) the accumulation of Stored Water credits by the Parties in excess of the quantity of water available to be pumped by them. By entering into this Agreement, and by undertaking the actions described herein, the Parties seek to ensure that necessary long-term improvements are made to capture and recharge sufficient quantities of rainfall whenever available to correct declining water levels and to guard against any short-term deficiencies in Basin replenishment as might be associated with drought conditions. In the interim, while these Projects are being implemented, the Parties also agree that some guidelines must be established to avoid harm to the Basin and all Parties.

2. **Term.** The term of this Agreement shall be ten years and shall commence with the 2007-08 Water Year (beginning October 1, 2007). The 2007-08 Water Year shall be Year 1; the 2008-09 Water Year shall be Year 2, and so on. At the conclusion of the term of this Agreement, on or about September 30, 2017, the Parties, in coordination with the Watermaster, will evaluate the effectiveness of this Agreement including, but not limited to, the status of the Projects, and determine whether this Agreement shall be extended.

3. **Enhancement of Recharge Capacity.** Los Angeles has previously expressed its support for several artificial recharge projects. The Parties acknowledge that if implemented as planned, these projects, individually and collectively, will augment replenishment of the Basin in a manner that arrests the observed decline in groundwater levels. The projects presently being pursued include, but are not limited to: the Sheldon-Arleta Project, the Big Tujunga Dam Seismic Restoration Project, the Hansen Spreading Grounds Project, and the Tujunga Spreading Grounds Project (collectively, the Projects).

3.1 By the conclusion of Year 10, Los Angeles, in collaboration with the Los Angeles County Department of Public Works (a separate public agency which is not a party to this Agreement), intends to support and contribute resources towards the design, construction and implementation of the Projects in a manner that increases the Basin's total artificial recharge capacity over conditions existing as of the date of this Agreement. By taking these actions, Los Angeles anticipates that the long-term average native replenishment of the Basin may be increased by at least 12,000 acre-feet per year. Although the exact quantity of additional recharge that will be derived from these Projects, when completed, is unknown and is dependent ultimately on the quantity and variability of precipitation, it is reasonable to assume the additional recharge of the Basin made possible by these Projects will be substantial. While Los Angeles may also elect to contribute funding towards these Projects, this Agreement does not obligate Los Angeles to fund any of the Projects either in part or in whole.

3.2 Mutual Cooperation. Burbank and Glendale agree to coordinate and cooperate with Los Angeles and the Los Angeles County Department of Public Works as may be necessary to increase the likelihood of timely implementation of the Projects.

3.3 Reporting. Within 60 days of the conclusion of each Water Year during the term of this Agreement, Los Angeles shall file a report with the Administrative Committee, the Watermaster and the Court documenting the status of the Projects, including but not limited to the extent by which the Projects have increased the Basin's total artificial recharge capacity.

4. Pumping Limitation. For the term of this Agreement, the Parties agree not to pump their pro-rata share of the total Stored Water credits held by the Parties collectively that, if pumped, would cause the total quantity of water in storage to fall below -655,370 acre-feet (the 1968 level). The quantity of water that the Parties otherwise could have pumped pursuant to their respective Stored Water credits shall be placed in a reserve, and not lost, until such time as there is sufficient water in storage to permit the pumping of those credits without causing the quantity of water in storage to fall below the 1968 level.

4.1 Calculation of Available Stored Water Credits and Reserved Stored Water Credits. The Parties authorize the Watermaster to calculate, annually, the quantity of Stored Water credits available to be pumped by each Party (Available Stored Water credits) and the quantity of Stored Water credits reserved for later use by each Party (Reserved Stored Water credits), as agreed upon herein.

(a) For purposes of making this calculation, the Watermaster shall: (1) compute each Party's Stored Water credits as of the first day of each Water Year for the term of this Agreement, including the one percent (1%) loss described in Section 5 below; (2) assign a percentage to each Party that reflects the relative proportion of each Party's Stored Water credits to the total quantity of credits available to all Parties; (3) determine the quantity of Stored Water available to be pumped by all Parties and calculate each Party's relative proportion of that total quantity; and (4) calculate the quantity of Stored Water Credits not available to be pumped in that Water Year and reserved for later use. For the 2006-07 Water Year (beginning October 1, 2006), which is not subject to this Agreement, the calculation would be as follows:

Party	Stored Water Credits (AF), Minus 1% Losses	Percentage of Total Quantity of Stored Water Credits for Each Party	Available Stored Water Credits (AF)	Reserved Stored Water Credits (AF)
Los Angeles	370,350	83.146%	139,018	231,334
Glendale	61,215	13.743%	22,978	38,236
Burbank	13,859	3.111%	5,202	8,656
Total	445,424	100%	167,198	278,226

4.2 Exception to Satisfy Consent Decree Obligations. Nothing herein shall be construed as causing Burbank or Glendale to pump less groundwater from the Basin than required by the United States Environmental Protection Agency's Consent Decrees for the Burbank Operable Unit [Civil Action 91-4527-MRP (Tx), dated 06-22-1998] and the Glendale North and South Operable Units [CV99-00552 MRP (ANx), dated 05-17-2000], respectively, all of which are incorporated by this reference as if fully set forth herein, and as may be modified or amended from time to time during the term of this Agreement (collectively, Consent Decrees). In the event that the pumping limitations set forth in Section 4 above are triggered by a decline in storage, Burbank and Glendale may pump Reserved Stored Water credits to meet their Consent Decree obligations subject to the following conditions:

(a) In the event Los Angeles is able to produce the full quantity of its Extraction Right to meet the water requirements of its inhabitants for the Water Year in which Glendale's or Burbank's Available Stored Water Credits are not sufficient to meet that Party's Consent Decree obligations, Glendale or Burbank shall be required to purchase Physical Solution water pursuant to Section 9.4 of the Judgment as necessary to meet their respective Consent Decree obligations. For purposes of this Agreement, "Extraction Right" shall mean the total quantity of Los Angeles' Return Water Extraction Right plus Native Safe Yield Credit, as set forth in Table 2-1 1A of the Watermaster's most recent annual report prepared pursuant to section 8.2.11 of the Judgment.

(b) In the event the conditions of paragraph 4.2(a) above are not satisfied, Los Angeles may elect to exchange water or stored water credits with the Party requiring additional water to meet its Consent Decree obligations upon such terms and conditions as the affected Parties may agree upon. In the event an agreement to exchange water or stored water credits sufficient to permit either Glendale or Burbank to satisfy their Consent Decree obligations cannot be reached, Glendale or Burbank may pump Reserved Stored Water credits as necessary to meet their Consent Decree obligations, subject to Paragraph 4.2(c) below.

(c) Any pumping by Glendale and Burbank of Reserved Stored Water credits pursuant to this exception shall not exceed a maximum combined total of 2,000 acre-feet per year over the term of this Agreement. Any pumping in excess of a combined total of 2,000 acre-feet per year over the term of this Agreement shall be pursuant to Section 9.4 of the Judgment.

4.3 Exception for Unforeseen Circumstances. Additionally, to the extent that any Party is required to pump water in excess of that Party's Available Stored Water credits and in reliance upon that Party's Reserved Stored Water credits, to meet presently unspecified federal or state regulatory obligations that may be established in the future or unforeseen material changes in the Parties' operations or Basin conditions, the affected Party(ies) shall coordinate with the Administrative Committee and the Watermaster to determine whether and to what extent additional quantities of groundwater may be extracted in a manner that does not cause harm to the Basin or any other Party.

5. Account for Groundwater Losses. The Parties acknowledge that Stored Water losses may occur from the Basin. The Parties further acknowledge that Section 8.2.9 of the Judgment requires the calculation of such losses from Stored Water. The Parties estimate that as much as one percent (1%) of all Stored Water is lost from the Basin annually.

5.1 For the term of this Agreement, or until such time as the Basin loss calculation is re-evaluated, the Parties authorize Watermaster to deduct one percent (1%) annually from each Parties' respective Stored Water credits account.

6. Basin Safe Yield Study. The Parties acknowledge that, from time to time, it may be appropriate to study information regarding the hydrology of the Basin, including the Basin's Safe Yield, as that term is defined in the Judgment.

6.1 Within six months of the date of execution of this Agreement, the Parties, in coordination and consultation with the Watermaster, will develop a proposal for conducting a study of the Basin's Safe Yield. The proposal will include each of the following elements: (1) timing for designing, conducting and implementing the study and each of its phases, (2) trigger(s) and parameters for implementing the study, or any part or phase, (3) procedures for managing and allocating costs and for authorizing expenditures during and throughout the study; (4) methods and manner for conducting the study; and (5) anticipated goals or outcomes of the study. Thereafter, the Parties will commence a study of the Basin's Safe Yield that is consistent with the proposal required by this Section, as may be agreed upon by the Parties.

6.2 In the event the Parties are unable to agree to a proposal for studying the Basin's Safe Yield within six months of the date of execution of this Agreement, the Parties, individually or collectively, shall lodge their respective proposals, if any, with the Court. The Court, upon at least 30 days notice thereof and after a hearing, shall make such further or supplemental orders as may be necessary or appropriate and consistent with the Judgment.

7. Recalculation of Safe Yield. Regardless of any information collected or reports made pursuant to Section 6 above, the Parties agree to forebear from exercising any and all rights they may have arising under or related to Section 8.2.10 of the Judgment for the term of this Agreement, except as may be necessary to respond to, support or oppose any Watermaster recommendation or action that may be inconsistent with this Agreement, the provisions herein, or any Party's respective rights, remedies and defenses arising under the Judgment or applicable law. After the expiration of this Agreement, the rights of any and all Parties arising under or related to Section 8.2.10 will not be prejudiced by the existence of this Agreement or their agreement to forebear pursuant to its terms.

8. Annual Accounting by Watermaster. Watermaster will collect, record and verify, or otherwise arrange for the collection, recordation and verification of, any and all data and information as may be required or generated by this Agreement and as may be otherwise directed by the Administrative Committee or the Court. Upon written request by any Party, all such data and information shall be made available to the Parties. The

Watermaster shall include such data and information in its annual Watermaster Report, prepared pursuant to Section 8.2.11 of the Judgment, a copy of which is filed with the Court.

9. Administrative Committee and Watermaster Authority. Watermaster and the Administrative Committee are not Parties to this Agreement. This Agreement is made among the Parties and nothing herein shall be construed as a limitation on the powers and responsibilities of the Administrative Committee or the Watermaster arising under the Judgment.

10. Reservation of All Rights. Subject to Section 7 above, neither this Agreement, nor any provision herein, shall be construed as a waiver or limitation on any Party's respective rights, remedies and defenses arising under the Judgment or applicable law including, but not limited to, the right to respond to, support or oppose further Watermaster recommendations.

11. Consistency with Judgment and Continuing Jurisdiction. The actions contemplated by this Agreement, if implemented, facilitate a physical solution and are intended as measures that arise under, are consistent with, and in furtherance of, the Judgment. Accordingly, this Agreement shall be subject to the Court's continuing jurisdiction as provided by Section 7 of the Judgment.

12. Further Actions. The Parties contemplate that additional opportunities may arise to further augment the available yield of the Basin during the term of this Agreement. Upon a request by any Party, the Watermaster or the Administrative Committee, the Parties will exercise good faith to fairly evaluate opportunities to exchange water, enhance recharge, evaluate a replenishment program and conserve water. Further, Burbank is actively pursuing an inter-connection with the Metropolitan Water District of Southern California to permit the delivery of replenishment water to Burbank for storage in the Basin. Burbank will file annual status reports with the Watermaster, the Administrative Committee and the Court in a manner similar to Los Angeles' reporting as provided in Section 3.3 above.

13. General Provisions.

13.1 Assignment. This Agreement shall not be assigned by any Party.

13.2 Attorneys' Fees. Should legal action be instituted by any Party to this Agreement, to enforce or interpret any provision of this Agreement, each Party shall bear its own attorneys' fees.

13.3 Authorizations. All individuals executing this Agreement on behalf of the respective Parties certify and warrant that they have the capacity and have been duly authorized to so execute this Agreement on behalf of the entity so indicated.

13.4 Construction. The provisions of this Agreement shall be liberally construed to effectuate its purposes. The language of this Agreement shall be construed

simply according to its plain meaning and shall not be construed for or against any Party, as each Party has participated in the drafting of this Agreement.

13.5 Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13.6 Entire Agreement and Amendment. In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the Parties and there have been no promises, representations, agreements, warranties or undertakings by any of the Parties, either oral or written, of any character or nature binding except as stated herein. This Agreement may be modified, altered or amended only by an instrument in writing, executed by the Parties to this Agreement and by no other means. Each Party waives its right to claim, contest or assert that this Agreement was modified, canceled, superseded or changed by any oral agreement, course of conduct, waiver or estoppel.

13.7 Good Faith. The Parties agree to exercise their reasonable best efforts and utmost good faith to effectuate all the terms and conditions of this Agreement and to execute such further instruments and documents as are necessary or appropriate to effectuate all of the terms and conditions of this Agreement.

13.8 Notices. All notices, approvals, acceptances, demands and other communication required or permitted under this Agreement, to be effective, shall be in writing and delivered in person or by U.S. Mails (prepaid postage, certified, return receipt requested) or by overnight delivery service to the Party to whom the notice is directed at the addresses identified below:

To Los Angeles:

Director of Water Resources
Los Angeles Department of Water and Power
111 N. Hope Street, Room 1460
Los Angeles, CA 90012

With copy to:

Julie Conboy Riley, Deputy City Attorney
Office of the City Attorney
City of Los Angeles
111 N. Hope Street, Room 340
Los Angeles, CA 90012

To Glendale:

Peter Kavoumas, Water Services Administrator
Glendale Water and Power
City of Glendale
141 North Glendale Ave., 4th Level
Glendale, CA 91206-4496

With copy to:

Christine Godinez, Assistant City Attorney
City of Glendale
613 East Broadway, Suite 220
Glendale, CA 91206-4394

To Burbank:

William Mace, Assistant General Manager
Burbank Water and Power
City of Burbank
164 West Magnolia Boulevard
P.O. Box 631
Burbank, CA 91503-0631

With copy to:

Carolyn Barnes, Senior Assistant City Attorney
City of Burbank
275 East Olive Avenue
Burbank, CA 91510-6459

To the Watermaster:

Mark Mackowski
Upper Los Angeles River Area Watermaster
111 N. Hope Street, Room 1450
Los Angeles, CA 90012

To the Court:

The Honorable Susan Bryant-Deason
Judge of the Los Angeles County Superior Court
111 N. Hill Street, Dept. 52
Los Angeles, CA 90012

Any written communication given by mail shall be deemed delivered two (2) business days after such mailing date. Any communication given by overnight delivery service

shall be deemed delivered one (1) business day after the dispatch date. Either Party may change its address by giving the other Party written notice of its new address as provided above.

13.9 Recitals. The recitals set forth at the beginning of this Agreement of any matters or facts shall be conclusive proof of the truthfulness thereof and the terms and conditions set forth therein shall be deemed a part of this Agreement.

13.10 Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of the Parties and their respective successors.

13.11 Court Approval. The Parties hereto shall seek Court approval of this Agreement prior to September 30, 2007.

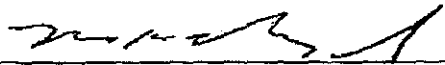
14. Waiver. No waiver of any provision or consent to any action shall constitute a waiver of any other provision or consent to any other action, whether or not similar. No waiver or consent shall constitute a continuing waiver or consent or commit a Party to provide a waiver or consent in the future except to the extent specifically stated in writing. No waiver shall be binding unless executed in writing by the Party making the waiver, based on a full and complete disclosure of all material facts relevant to the waiver requested.

[continued on next page]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement.

DEPARTMENT OF WATER AND POWER OF
THE CITY OF LOS ANGELES BY
BOARD OF WATER AND POWER COMMISSIONERS
OF THE CITY OF LOS ANGELES

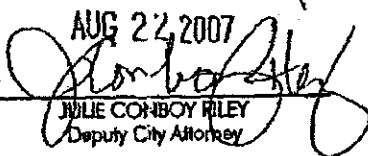
Date: 9/19/07

By: 
ROBERT K. ROZANSKI
Acting General Manager

And: 
Secretary

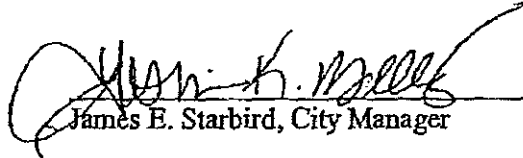
AUTHORIZED BY RES. 308 046
SEP 04 2007

APPROVED AS TO FORM AND LEGALITY
ROCKARD J. DELGADILLO, CITY ATTORNEY

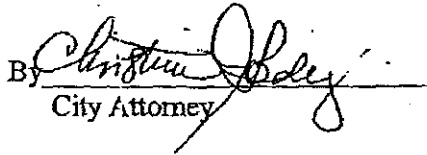
AUG 22 2007
BY 
JULIE CONWAY RILEY
Deputy City Attorney

CITY OF GLENDALE

Date: 9/13/07


James E. Starbird, City Manager

Approved as to Form:

By 
Christina Haley
City Attorney

CITY OF BURBANK

Date: 9/13/07

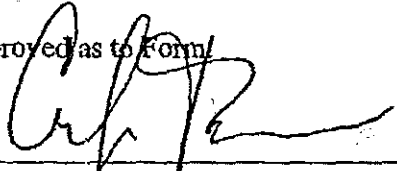


Ronald E. Davis, General Manager,
Burbank Water and Power

Attest:

By Margarita Campos
Margarita Campos, City Clerk

Approved as to Form:

By 
Carolyn Barnes, Senior Assistant City
Attorney

SB 440012 v1.011538.0001

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ORDER

Having read and reviewed the foregoing stipulation, **IT IS HEREBY ORDERED** that the terms of the *Interim Agreement for the Preservation of the San Fernando Basin Water Supply*, dated September 20, 2007 ("Agreement"), which is entered into by and between the City of Los Angeles, the City of Glendale and the City of Burbank, all of whom are parties to this action, a copy of which is attached hereto and incorporated herein by this reference, shall be the Order of the Court. The Parties are hereby ordered to comply with the terms of the Agreement.

DATED: October 2, 2007 Judge Susan Bryant-Deason
JUDGE OF THE SUPERIOR COURT

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PROOF OF SERVICE

I am employed in the County of Los Angeles; I am over the age of eighteen years and am not a party to the within entitled action; my business address is 111 North Hope Street, Suite 340, Los Angeles, California 90012-2694. On September 25, 2007, I served the within documents:

STIPULATION AND [PROPOSED] ORDER RE. INTERIM AGREEMENT FOR THE PRESERVATION OF THE SAN FERNANDO BASIN WATER SUPPLY

☐

by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date.

☒

by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below.

☐

by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

PLEASE SEE THE ATTACHED LIST.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

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

Executed on September 25, 2007, at Los Angeles, California.


Lillian M. Catena

1 THE CITY OF LOS ANGELES v. CITY OF SAN FERNANDO, ET AL.
2 LASC CASE NO. C 650 079

3 SERVICE LIST

4 SCOTT S. SLATER, ESQ.
5 STEPHANIE OSLER HASTINGS, ESQ.
6 **HATCH & PARENT**
7 21 E. Carillo Street
8 Santa Barbara, California 93101
9 Telephone: (805) 963-7000
10 Facsimile: (805) 965-4333

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CITY OF BURBANK and
CITY OF GLENDALE

11 CITY OF GLENDALE
12 SCOTT H. HOWARD, City Attorney
13 CHRISTINE A. GODINEZ, Assist. City Attorney
14 613 East Broadway, Suite 220
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16 Telephone: (818) 548-2080
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Attorneys for Defendants
CITY OF BURBANK and
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18 CITY OF BURBANK
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Attorneys for Defendants
CITY OF BURBANK and
CITY OF GLENDALE

26 Julie Conboy Riley
27 Deputy City Attorney
28 Office of the City Attorney
Department of Water and Power
P. O. Box 5111- Room 340 (Mailing)
111 N. Hope Street, Room 340
Los Angeles, CA 90051-0100

Attorneys for Plaintiff, THE CITY
OF LOS ANGELES, acting by and
through the DEPARTMENT OF
WATER AND POWER

29 Kisag Moordigian
30 15224 El Caseo Street
31 Sylmar, California 91342

MHC Santiago Estates LP
(Successor-In-Interest to Meurer
Engineering, Inc.)
13691 Gavina Avenue
Sylmar, CA 91342-2655

32 MHC Santiago Estates LP
33 (Successor-In-Interest to Meurer
34 Engineering, Inc.)
35 2 N. Riverside Plaza, Ste. 800
36 Chicago, IL 60606

Thomas Bunn, Special Counsel
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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF LOS ANGELES

10 THE CITY OF LOS ANGELES,

11 Plaintiff,

12 v.

13 CITY OF SAN FERNANDO, et al.,

14 Defendants.

Case No. C650 079

15 **WATERMASTER STATEMENT RE:
INTERIM AGREEMENT FOR THE
PRESERVATION OF THE SAN
FERNANDO BASIN WATER SUPPLY**

16 Before the Hon. Susan Bryant-Deason

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20 The court-appointed Watermaster hereby submits the following statement
21 regarding the Stipulation and [Proposed] Order re: Interim Agreement for the Preservation of
22 the San Fernando Basin Water Supply, submitted by the Cities of Los Angeles, Glendale and
23 Burbank ("Agreement").

24 The Watermaster supports this Court's approval of the Agreement. The
25 Watermaster appreciates the efforts on the part of the Cities of Los Angeles, Glendale and
26 Burbank to reach a negotiated solution to the complex issues affecting the declining stored
27 groundwater levels in the San Fernando Basin. The Watermaster believes the Agreement
28

1 represents significant progress in addressing the issues set forth in the Watermaster White
2 Paper lodged with this Court on March 23, 2007. The Agreement contains many elements that
3 will help restore the long-term sustainability of the Basin, and the Agreement expressly
4 provides for the preservation of all Watermaster authority under the Judgment.¹

5 While the Watermaster supports approval of the Agreement, and while the
6 Watermaster is hopeful that the Agreement will facilitate improved storage levels in the Basin,
7 the Watermaster is obligated to raise several issues that may materialize in the future.

8 First, the Watermaster believes that a Basin Safe Yield Study is a critical
9 component of understanding the true and correct hydrologic conditions in the Basin. It has
10 been over 40 years since a Basin Safe Yield Study has been performed. Section 6 of the
11 Agreement provides that the Parties will develop a proposal for a Basin Safe Yield Study. This
12 paragraph further provides that if the Parties do not come to an agreement on a single
13 proposal, then the Parties will submit their separate proposals to this Court. The Agreement
14 therefore has the potential to delay the Basin Safe Yield Study. The Watermaster agrees that
15 a six month period is ample time for the Parties to agree upon the proposal for the Basin Safe
16 Yield Study. Indeed, the Parties should endeavor to commence the study prior to the time
17 allocated by the Agreement. In any case, the Safe Yield Study should begin no later than the
18 completion of the six month study period.

19 Second, the Watermaster believes that actual losses must be calculated, not
20 merely estimated. Section 5.1 of the Agreement provides that for the 10-year term of the
21 Agreement, the Parties authorize Watermaster to deduct one-percent annually from each
22 Party's respective Stored Water Credit, or until such time as the Basin loss calculation is re-
23 evaluated. The Watermaster believes the one-percent estimate is reasonable on an interim
24 basis. However, Section 8.2.9 of the Judgment requires that Watermaster shall calculate and
25

26
27 ¹ Paragraph 9 of the Agreement provides: "Watermaster and the Administrative
28 Committee are not Parties to this Agreement. This Agreement is made among the Parties and
nothing herein shall be construed as a limitation on the powers and responsibilities of the
Administrative Committee or the Watermaster arising under the Judgment."

1 account for stored water losses.² It is therefore imperative that Watermaster calculate the true
2 and correct Basin losses from rising groundwater and underflow. Upon obtaining the
3 necessary data to accurately perform that calculation, Watermaster believes it is necessary
4 and appropriate to deduct actual losses, not estimated losses, from the Parties' Stored Water
5 Credits. Therefore, the Watermaster will recommend that the calculation for determining Basin
6 losses be re-evaluated as part of the Basin Safe Yield Study, and implemented upon
7 completion of the Study.

8 Third, Section 4.2.6.1 of the Judgment states that the San Fernando Basin
9 "...remained in overdraft continuously until 1968, when an injunction became effective.
10 Thereafter, the basin was placed on safe yield operation." The Parties anticipate that the
11 actions required of them under the Agreement will forestall the Basin's decline and prevent
12 groundwater levels from slipping below the 1968 benchmark. However, if progress does not
13 materialize as anticipated and groundwater levels fall below the 1968 level, the Watermaster
14 may be obligated to declare overdraft and consider further options consistent with the
15 Judgment to protect the Basin.

16 The Watermaster is hopeful that the Parties will reach consensus on the
17 implementation of a Basin Safe Yield Study, the calculation of losses, and conjunctive use
18 projects to replenish the Basin. In that regard, the Watermaster hopes that the reservations
19 expressed herein will not need to be addressed by this Court. Nonetheless, in light of the
20 Agreement's dependence on additional action by the Parties over the next 10 years, and in
21 particular the next six months, the Watermaster is obligated to inform this Court of the
22 aforementioned issues.

23 ///

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28 ² Section 8.2.9, in relevant part, provides: "Watermaster shall record and verify additions,
extractions and losses and maintain an annual and cumulative account of all (a) stored water
and (b) import return water in San Fernando Basin."

1 The Watermaster expresses its appreciation to the Parties and this Court for their
2 attention in developing solutions to enhance the long-term sustainability of the San Fernando
3 Basin.

4
5 DATED: September 25, 2007

NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP
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Alfred E. Smith

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7
8 By: 

Alfred E. Smith

Attorneys for Upper Los Angeles River
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PROOF OF SERVICE

The undersigned declares:

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action; my business address is c/o Nossaman, Guthner, Knox & Elliott, LLP, 445 S. Figueroa Street, 31st Floor Los Angeles, California 90071-1602.

On September 25, 2007, I served the foregoing **WATERMASTER STATEMENT RE: INTERIM AGREEMENT FOR THE PRESERVATION OF THE SAN FERNANDO BASIN WATER SUPPLY** on parties to the within action by placing () the original (x) a true copy thereof enclosed in a sealed envelope, addressed as shown on the attached service list.

(X) (By U.S. Mail) On the same date, at my said place of business, said correspondence was sealed and placed for collection and mailing following the usual business practice of my said employer. I am readily familiar with my said employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service, and, pursuant to that practice, the correspondence would be deposited with the United States Postal Service, with postage thereon fully prepaid, on the same date at Los Angeles, California.

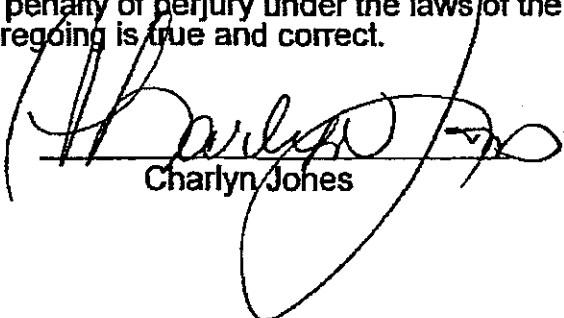
() (By Facsimile) I served a true and correct copy by facsimile pursuant to C.C.P. 1013(e), to the number(s) listed on the attached sheet. Said transmission was reported complete and without error. A transmission report was properly issued by the transmitting facsimile machine, which report states the time and date of sending and the telephone number of the sending facsimile machine. A copy of that transmission report is attached hereto.

() (By Overnight Service) I served a true and correct copy by overnight delivery service for delivery on the next business day. Each copy was enclosed in an envelope or package designated by the express service carrier; deposited in a facility regularly maintained by the express service carrier or delivered to a courier or driver authorized to receive documents on its behalf; with delivery fees paid or provided for; addressed as shown on the accompanying service list.

Executed on September 25, 2007.

(X) (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

() (FEDERAL) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.


Charlyn Jones

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