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7 EASTERN MUNICIPAL WATER DISTRICT

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF RIVERSIDE

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12 EASTERN MUNICIPAL WATER DISTRICT, ) CASE NO.:  
13 A California Municipal Water District, )  
14 ) STIPULATED JUDGMENT  
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**FINDINGS**

After consideration of the pleadings and the Stipulation for Entry of Judgment, the Court finds that:

1. **Complaint.** On \_\_\_\_\_, 2009, Plaintiff Eastern Municipal Water District ("Eastern") filed a Complaint against Defendants Lake Hemet Municipal Water District ("Lake Hemet"), City of Hemet ("Hemet"), City of San Jacinto ("San Jacinto"), \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_. The Complaint requests a declaration of Plaintiff's and Defendants' individual and collective rights to surface water and groundwater in the Canyon Sub-basin, the San Jacinto Upper Pressure Sub-basin downstream to Bridge Street, and the Hemet Basin ("Management Area") and the imposition of a physical solution to achieve the optimum, reasonable, beneficial use of the waters of the Management Area

1 pursuant to section 2 of article X of the California Constitution. A map describing  
2 the boundaries of the Management Area is attached to this Judgment as Exhibit  
3 “A” and to the Complaint.

4 **2. Parties.**

5 **A. Eastern.** Eastern is a California municipal water district  
6 formed pursuant to the Municipal Water District Law, California Water Code  
7 Sections 71000-73001 (West 1966), with its principal place of business in  
8 Riverside County, California. Eastern diverts surface water from the San Jacinto  
9 River, and pumps groundwater from the Management Area for use by its  
10 customers within its boundaries.

11 **B. Lake Hemet.** Lake Hemet is a California municipal water  
12 district formed pursuant to the Municipal Water District Law, California Water  
13 Code Sections 71000-73001 (West 1966), with its principal place of business in  
14 Riverside County, California. Lake Hemet diverts surface water from the Santa  
15 Jacinto River and its tributaries, and pumps groundwater from the Management  
16 Area for use by its customers within its boundaries.

17 **C. Hemet.** Hemet is a California municipal corporation providing  
18 utility services pursuant to the California Constitution, article XI, section 9. Hemet  
19 pumps groundwater from the Management Area for use by its customers within its  
20 boundaries.

21 **D. San Jacinto.** San Jacinto is a California municipal corporation  
22 providing utility services pursuant to the California Constitution, article XI, section  
23 9. San Jacinto pumps groundwater from the Management Area for use by its  
24 customers within its boundaries.

25 **E.** \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_  
26 are persons who own farms or other property within the Management Area, and  
27 pump groundwater from the Management Area.

1           **3.     Answers and Stipulation for Judgment.** On \_\_\_\_\_, 200\_,  
2 Defendants filed Answers. On \_\_\_\_\_, 200\_, the Parties filed a Stipulation  
3 for Entry of Judgment.

4  
5           **4.     Sole Producers.** Other than the Soboba Band of Luiseño Indians, and  
6 certain overlying users not parties to this litigation, the parties claim essentially all  
7 of the rights to produce surface water and groundwater in the Management Area.

8           **5.     Importance of Surface Water and Groundwater.** Surface water  
9 and groundwater from the Management Area are important water supplies for  
10 agriculture, domestic and municipal use. The Parties have a mutual and collective  
11 interest in the coordinated management of such water resources to ensure that the  
12 common resource is used efficiently and reasonably, and that it is sustained and  
13 replenished.

14           **6.     Overdraft.** It is estimated that the overdraft of the Management Area  
15 is at least 10,000 acre-feet per year. This estimate will be refined through further  
16 studies to be completed pursuant to the Water Management Plan, including data on  
17 the several sub-basins within the Management Area. Studies confirm that in recent  
18 years the total production from the Management Area, including pumping by those  
19 persons not parties to this litigation, has averaged approximately 63,800 acre-feet  
20 per year.

21           **7.     Importance of Judgment.** The Parties have an interest in the  
22 physical solution imposed by this Judgment to promote the efficient and  
23 coordinated management of surface water and groundwater, to avoid problems  
24 from overdraft, to assist in protecting the rights of the Soboba Band of Luiseño  
25 Indians, to sustain and enhance water resources, and to resolve competing claims  
26 to surface water and groundwater.

27           **8.     Jurisdiction.** This Court has jurisdiction to enter this Judgment  
28 declaring and adjudicating the rights of the Parties to the reasonable and beneficial

1 use of surface water and groundwater in the Management Area, and to impose a  
2 physical solution pursuant to law, including California Constitution, article X,  
3 section 2.  
4

## 5 **JUDGMENT**

### 7 **IT IS ORDERED, ADJUDGED AND DECREED:**

#### 9 **1. DEFINITIONS.**

11 **1.1 Adjusted Production Right** – the Base Production Right of  
12 each Public Agency, as adjusted pursuant to Sections 3.2 to 3.2.5.

13 **1.2 Administrative Assessment** – an acre-foot charge to be levied  
14 against each Public Agency for water pumped up to its Adjusted Production Right,  
15 including any unused amount of such Right that is pumped in a following year  
16 (Carry-Over Credit). Such assessments shall be used for Administrative Expenses,  
17 and for the purchase of Supplemental Water after Administrative Expenses have  
18 been paid. No Administrative Assessment shall be levied on a Party's pumping of  
19 its share of Imported, Supplemental, or Stored Water.

20 **1.3 Administrative Expenses** – Include, but are not limited to,  
21 Watermaster's expenses for office rental, personnel, supplies, office equipment,  
22 general overhead, preparing and collecting assessments, monitoring well pumping,  
23 measuring water levels, sampling and analyzing water quality, compiling and  
24 interpreting collected data, conducting special studies, litigation, and such other  
25 expenses as are reasonable and necessary for the Watermaster to carry out its  
26 duties under the Physical Solution and Water Management Plan.

27 **1.4 Advisor.** An independent engineering firm or qualified  
28 individual as provided in Section 9.6.3.

1                   **1.5 Annual Basin Yield** – the quantity of Groundwater that  
2 Watermaster determines the Parties may Produce from the Management Area in a  
3 calendar year without a replenishment obligation under the Physical Solution.

4                   **1.6 Base Production Right** – the water right of a Public Agency or  
5 Class B Participant as set forth in the attached Exhibit “C.”

6                   **1.7 Carry-Over Credit** – a Party's credit against the  
7 Replenishment Assessment in a Fiscal Year, based on the Party's Adjusted  
8 Production Right or share of Imported Water not produced in prior calendar years.

9                   **1.8 Class A Participant** – a Private Pumper who stipulates to this  
10 Judgment and participates in the Water Management Plan as defined in Sections  
11 4.3 to 4.3.5.

12                   **1.9 Class B Participant** – a Private Pumper who stipulates to this  
13 Judgment and participates in the Water Management Plan as defined in Sections  
14 4.4 to 4.4.6.

15                   **1.10 Fiscal Year** – the period from July 1 through June 30 of the  
16 following calendar year.

17                   **1.11 Fruitvale Documents** –

18                   **(a) Fruitvale Judgment** – The Judgment and Decree entered  
19 in the Superior Court for the County of Riverside on June 4, 1954, in an action  
20 titled The City of San Jacinto, et al. v. Fruitvale Mutual Water Company, et al.,  
21 Case No. 51-546;

22                   **(b) Fruitvale Mutual Water Company Sale of Assets to**  
23 **Eastern** – That certain “Agreement for the Sale of Assets of the Fruitvale Mutual  
24 Water Company to Eastern Municipal Water District” dated September 10, 1971;

25                   **(c) Fruitvale Mutual Water Company Agency**  
26 **Agreements** – The Agreement Between the City of San Jacinto and Eastern  
27 Municipal Water District dated June 15, 1972, the Agreement Between Lake  
28 Hemet Municipal Water District and Eastern Municipal Water District dated

1 June 9, 1972, and the Agreement Between the City of Hemet and Eastern  
2 Municipal Water District dated June 13, 1972, all providing for recognition of  
3 ownership of stock in Fruitvale Mutual Water Company by the Cities and by Lake  
4 Hemet, and making provision for the continued sale of water produced through the  
5 Fruitvale facilities by Eastern to the Cities and to Lake Hemet.

6 **1.12 Groundwater** – all water within and beneath the ground  
7 surface of the Management Area.

8 **1.13 Groundwater Degradation** (also “groundwater quality  
9 degradation” and “water quality degradation,” “Degradation” and “Degraded  
10 Groundwater”) – Water contamination as defined in state and/or federal law, and  
11 other conditions of reduced water quality as determined by the Watermaster to be  
12 harmful or undesirable for the operation of the Management Area.

13 **1.14 Imported Water** – An average of 7,500 acre feet annually of  
14 water sold by The Metropolitan Water District of Southern California to Eastern  
15 pursuant to Section 4.4 of the Soboba Band of Luiseño Indians “Settlement  
16 Agreement.”

17 **1.15 In-Lieu Water** – Groundwater that is not pumped, but which  
18 would have otherwise been pumped by the holder of an Overlying or  
19 Appropriative Right within the Management Area, by virtue of the pumper’s  
20 agreement with a Party or the Watermaster to receive and use Recycled Water or  
21 other nonpotable water in lieu of Groundwater.

22 **1.16 Management Area** –the Canyon Subbasin, the San Jacinto  
23 Upper Pressure Sub-basin downstream to Bridge Street, and the Hemet Basin, as  
24 delineated on the map attached as Exhibit "A."

25 **1.17 Metropolitan** – The Metropolitan Water District of Southern  
26 California.

27 **1.18 Natural Recharge** – Groundwater replenishment within the  
28 Management Area occurring from precipitation on the surface, percolation from

1 surface flows of the San Jacinto River and its tributaries, spreading or injection of  
2 such surface flows, return flows from irrigation, and subsurface inflows.

3 [1.19 New Pumper – a Private Pumper who pumps for the first time](#)  
4 [after entry of Judgment herein.](#)

5 **1.2019 Non-Participant** – a Private Pumper who elects not to  
6 participate in the Management Plan, or to be a party to this Judgment.

7 **1.201 Overdraft** – a condition whereby pumping in the Management  
8 Area exceeds the Safe Yield thereof.

9 **1.221 Overlying Right** – the appurtenant right of an owner of land  
10 overlying the Management Area to pump water from such land for beneficial use  
11 thereon.

12 **1.223 Party or Parties** – Eastern, Lake Hemet, Hemet, San Jacinto  
13 and the other Persons listed in the attached Exhibit "B."

14 **1.234 Person** – any individual, partnership, association, corporation,  
15 trust, government agency or other organization.

16 **1.245 Physical Solution** – the Court decreed method of managing the  
17 water supply of the Management Area to maximize the reasonable and beneficial  
18 use of the waters thereof pursuant to the California Constitution, article X, section  
19 2, to eliminate overdraft pursuant to the provisions of this Judgment, to protect the  
20 prior rights of the Soboba Tribe, and to provide for the substantial enjoyment of all  
21 water rights recognizing their priorities.

22 **1.256 Private Pumper** – a Person who owns land with an Overlying  
23 Right or other right in the Management Area and pumps more than 25 acre-feet per  
24 year. [Private Pumper includes first-time pumpers following entry of Judgment](#)  
25 [herein.](#)

26 **1.267 Public Agency or Agencies** – Eastern, Lake Hemet, Hemet and  
27 San Jacinto.

1                   **1.278 Recharge or Replenish** – to sink, spread or inject water  
2 directly or indirectly underground in the Management Area.

3                   **1.289 Recharge Right** – the rights of Eastern and Lake Hemet to  
4 pump and use water previously replenished to the Management Area as provided  
5 in Section 6.7.4.

6                   **1.2930 Recycled Water** – treated wastewater which is processed  
7 and suitable for controlled use in the Management Area, including Recharge.

8                   **1.310 Replenishment Assessment** – a charge to be levied against  
9 each Public Agency for each acre foot, or portion thereof, of Groundwater pumped  
10 in excess of the sum of its respective Adjusted Production Right, its share of  
11 Imported Water, Stored Water, Supplemental Water, and applicable Carry-Over  
12 Credits and Recharge Rights; and against each Class B Participant for pumping in  
13 excess of its 1995-99 average production, i.e., its Base Production Right. The rate  
14 of such assessments shall be determined by the Watermaster and shall be used for  
15 Replenishment Expenses.

16                   **1.321 Replenishment Expenses** – Watermaster expenses, including,  
17 but not limited to, the acquisition of Supplemental Water supplies, development of  
18 In-Lieu Water projects, acquisition or improvement of land, and for the  
19 construction, maintenance and operation of facilities necessary to replenish  
20 Groundwater in the Management Area, or otherwise to provide water to Parties  
21 within the Management Area.

22                   **1.332 Safe Yield** – the long term, average quantity of water supply in  
23 the Management Area that can be pumped without causing undesirable results,  
24 including the gradual reduction of natural groundwater in storage over long-term  
25 hydrologic cycles. The initial safe yield of the Management Area is estimated to  
26 be approximately 53,800 acre feet per year.

27                   **1.343 Settlement Agreement** – that Agreement titled “The Soboba  
28 Band of Luiseño Indians Settlement Agreement” among the Soboba Tribe, the

1 United States, as Trustee for the Tribe, Eastern Municipal Water District, Lake  
2 Hemet Municipal Water District, and The Metropolitan Water District of Southern  
3 California.

4 **1.354 Soboba Tribe (sometimes the “Tribe”)** – the Soboba Band of  
5 Luiseño Indians.

6 **1.365 Soboba Action** – the lawsuit entitled Soboba Band of Mission  
7 Indians, etc., v. Metropolitan, etc., et al, U.S. District Court, Central District of  
8 California, Case No. 00-84208 GAF (MANx).

9 **1.376 Storage Agreement** – an agreement between Watermaster and  
10 a Party to store Supplemental Water (other than a Party’s share of Imported  
11 Water) by sinking, spreading, injecting or in-lieu procedures in the Management  
12 Area, and to establish a manner of accounting for the credit therefore and  
13 subsequently to recover such water, without payment of Administrative or  
14 Replenishment Assessments.

15 **1.387 Storage Right** – a Party's right to store and pump Supplemental  
16 Water (not required for a Party’s share of Imported Water) pursuant to a Storage  
17 Agreement.

18 **1.398 Stored Water** – Supplemental Water (other than a Party’s  
19 share of Imported Water) stored by a Party pursuant to a Storage Agreement.

20 **1.4039 Supplemental Water** – nontributary water imported into  
21 the Management Area, including imported water (i.e., other than or in addition to  
22 Imported Water), Recycled Water, In-Lieu Water, and other nonpotable water.

23 **1.410 Surface Water** – all water tributary to the Management Area  
24 and flowing above the ground surface.

25 **1.421 Transfer** – a temporary or permanent conveyance, assignment,  
26 sale, contract or lease of part or all of a Party's Adjusted Production Right,  
27 Carry-over Credit, Storage Right or Recharge Right to any other Party, or a  
28

1 temporary assignment, contract, lease or sale of part of the Soboba Tribe's  
2 quantified water right.

3 **1.432 Tribal Water Rights** – the Soboba Tribe's rights to water set  
4 forth in Section 4.1 of the Settlement Agreement and Section 5 of this Stipulated  
5 Judgment.

6 **1.443 Tunnel** – the San Jacinto Tunnel in Riverside County,  
7 California, constructed by Metropolitan in the 1930s.

8 **1.454 Watermaster** – the Board with the powers and duties defined  
9 in Section 9.

10 **1.465 Water Management Plan** (sometimes the "Plan") – the Plan  
11 adopted by the Watermaster, as it may be modified from time to time, to  
12 implement the Physical Solution, to ensure an adequate and reliable source of  
13 future water supply for the Management Area, and to protect the prior rights of the  
14 Soboba Tribe.

15  
16 **2. EXHIBITS.**

17 The following exhibits are attached to this Judgment and incorporated  
18 in it:

19 "A." Map of the Management Area and the Management Area  
20 Watershed.

21 "B." List of Parties to this Judgment.

22 "C." Description of each Public Agency's and Class B Participant's  
23 Base Production Right.

24 **3. PUBLIC AGENCIES' WATER RIGHTS.**

25 **3.1 Base Production Right.** The Public Agencies are owners of  
26 rights to pump groundwater from the Management Area as set forth in Exhibit "C."  
27 These rights are for a calendar year and were calculated as follows:  
28

1                   3.1.1 The Base Production Right of Eastern is based upon its  
2 respective average pumping for calendar years 1995-1999, less an adjustment of  
3 1800 acre-feet representing a portion of a credit which it receives from  
4 Metropolitan for seepage into Metropolitan's San Jacinto tunnel, [for Eastern's use](#)  
5 [of Fruitvale water elsewhere](#), and for use of Fruitvale water by Lake Hemet, San  
6 Jacinto, and Hemet. The 1995-1999 period was chosen to reflect recent production  
7 prior to the commencement of negotiations leading to this Stipulated Judgment.

8                   3.1.2 The Base Production Right of Lake Hemet is based on its  
9 average production for calendar years 1995-1999.

10                  3.1.3 The Base Production Right of Hemet is based on its  
11 average production for calendar years 1995-99, plus an adjustment of 900 acre feet  
12 per year representing a portion of the seepage credit referenced in Section 3.1.1.

13                  3.1.4 The Base Production Right of San Jacinto is based upon  
14 its average Production for calendar years 1995-1999, plus 500 acre-feet per year,  
15 and plus an adjustment of 900 acre feet per year representing a portion of the  
16 seepage credit referenced in Section 3.1.1. The 500 acre-feet per year has been  
17 added because San Jacinto's recent pumping does not reflect its historic  
18 production, due to water purchases and other factors.

19                  3.1.5 The Base Production Rights of Hemet and San Jacinto  
20 each include 900 acre-feet per year that have been added to their respective  
21 amounts of pumping for calendar years 1995-1999. These amounts have been  
22 added to provide Hemet and San Jacinto a fair share of water from, and to resolve  
23 disputes regarding, Eastern's use of tunnel seepage, Eastern's use of Fruitvale  
24 waters, and Lake Hemet's surface stream diversions. These additional amounts of  
25 900 acre-feet per year shall be treated as the first amounts pumped by Hemet and  
26 San Jacinto, shall not be subject to reduction by the Watermaster as provided in  
27 Sections 3.2 to 3.2.2, and shall not be subject to any Administrative or  
28

1 Replenishment Assessments as provided in Sections 3.3 to 3.3.2, or to any other  
2 fee or charge imposed under the Management Plan.

3           **3.2 Adjusted Production Rights.** It is the goal of the Physical  
4 Solution to adjust the Base Production Rights of the Public Agencies over time on  
5 a pro-rata basis to a level consistent with the Watermaster's determination of Safe  
6 Yield. The reduction will be based on periodic demand, hydrology, recharge, and  
7 the community's ability to pay for Supplemental Water, and protection of the  
8 Tribal Water Rights. In order to implement this reduction in a phased manner,  
9 each Public Agency's Base Production Right shall be subject to adjustment as  
10 follows:

11                           3.2.1 Subject to Section 3.1.5, a 10% reduction from each Base  
12 Production Right in the first full year after entry of this Judgment.

13                           3.2.2 Until Adjusted Production Rights are consistent with the  
14 Public Agencies' share of Safe Yield, Watermaster shall determine the required  
15 reductions in Adjusted Production Rights in each subsequent year to achieve Safe  
16 Yield within a reasonable period of time as determined by the Watermaster,  
17 considering the extent of the overdraft, the economic impact on the Parties bound  
18 by this Judgment, and other relevant factors. The goal is to achieve Safe Yield  
19 over a six (6) year period assuming an annual overdraft of 10,000 acre feet. In the  
20 event the extent of the overdraft is greater or lesser than assumed, then the period  
21 of time reasonably required to reach Safe Yield may be extended or reduced  
22 accordingly. However, in no event shall any reduction be more than 10% of the  
23 Adjusted Production Rights of the prior year.

24                           3.2.3 A Public Agency party may pump in excess of its  
25 Adjusted Production Right, without any additional Administrative or  
26 Replenishment Assessment, by an amount equal to its share of the 7,500 acre feet  
27 of Imported Water that is not used by the Tribe provided such water has been  
28 previously delivered and is stored or will be delivered during the current water

1 year. The amount of the Tribe's unused portion of the 7,500 acre feet shall be  
2 determined annually by the Watermaster. Shares of unused Imported Water shall  
3 be allotted to the Public Agency Parties in proportion to Base Production Rights,  
4 and shall be acquired and paid for pursuant to contract with Eastern.

5 3.2.4 A Base Production Right of a Public Agency serving the  
6 land of a Class B Participant shall be increased in an amount equal to such  
7 Participant's Base Production Right, adjusted and reduced pursuant to Sections  
8 3.2.1 and 3.2.2, when the Participant's land is converted from agricultural use to  
9 water service from the Public Agency, pursuant to Section 4.4.3.

10 3.2.5 The Adjusted Production Rights of the Public Agencies  
11 may be increased by the Watermaster on a prorata basis to the extent that pumping  
12 by Class A participants, or pumping by persons not parties to this Judgment, may  
13 decrease, and the Watermaster finds that achieving the goal of maintaining the  
14 Management Area in a Safe Yield condition can still be met.

15 **3.3 Public Agency Production Assessments.** Public Agency  
16 pumping shall be subject to the following assessments:

17 3.3.1 An Administrative Assessment as provided in Section  
18 1.2. The Administrative Assessment will be \$50.00 per acre-foot of a Party's  
19 Adjusted Production Right pumped in the first full year after entry of this  
20 Judgment. The Watermaster shall set the Administrative Assessment rate annually  
21 thereafter. The first 900 acre feet per year of Adjusted Production Right pumped  
22 by Hemet and San Jacinto shall not be subject to such assessment.

23 3.3.2 A Replenishment Assessment will be levied on each  
24 Public Agency as provided in Section 1.29. However, a Public Agency may pump  
25 Groundwater in excess of the sum of its Adjusted Production Right, its share of  
26 Imported Water, Supplemental Water applicable Carry-Over Credits [per Section](#)  
27 [6.9.2](#), Recharge Rights, and production of Stored Water, in order to meet  
28

1 increasing demands, provided that such excess extractions shall be subject to  
2 Replenishment Assessments.

3           **3.4 Surface Rights.** Eastern holds License Number 016667 from  
4 the State Water Resources Control Board to divert, spread and recover surface  
5 flows of the San Jacinto River within the Management Area. Lake Hemet holds  
6 pre-1914 appropriative rights to divert and store surface flows in Lake Hemet, and  
7 to divert surface flows tributary to but outside of the Management Area from  
8 Strawberry Creek and from the North and South Forks of the San Jacinto River.  
9 All Parties acknowledge such Eastern and Lake Hemet rights, and the fact that they  
10 are not subject to any assessments under this Judgment; provided that any water  
11 pumped by Eastern under its License shall be included in its Adjusted Production  
12 Right.

13           **3.5 Fruitvale Judgment, Sale of Assets, and Agreements.** The  
14 Court hereby finds that Eastern purchased all of the water rights and assets of the  
15 Fruitvale Mutual Water Company (“Fruitvale”) pursuant to the Agreement  
16 described in Section 1.11(b) hereof, and is now the owner thereof. Eastern, as the  
17 successor in interest to Fruitvale, is also a defendant in the action described in  
18 Section 1.11(a) hereof. The Court finds that the only other remaining party in such  
19 action is the plaintiff City of San Jacinto. The Court retained continuing  
20 jurisdiction in such action, and Eastern has made annual reports pursuant to the  
21 Fruitvale Judgment. Pursuant to stipulation between Eastern and San Jacinto, and  
22 in accord with the physical solution and terms of this Judgment, the Court hereby  
23 finds that the rights and obligations of the Fruitvale Judgment have been subsumed  
24 in, and superseded by, this Judgment and are no longer enforceable; that the  
25 limitations upon the place and amounts of water use in the Fruitvale Judgment, the  
26 sale Agreement, and the Agency Agreements described in Sections 1.11(a), (b), (c)  
27 are no longer applicable or enforceable; and that the continuing jurisdiction of the  
28 Court under the Fruitvale Judgment, and the obligation of Eastern to report

1 thereunder, are hereby terminated; provided, however, that none of the service area  
2 agreements included in the Fruitvale documents in Section 1.11, or any other  
3 agreements related to mutual aid, system interties, or service areas, shall be  
4 affected by this Judgment.

5 **3.6 Fruitvale Agency Rights.** The water rights of Hemet, San  
6 Jacinto and Lake Hemet under the several agreements with Eastern described in  
7 Section 1.11(c) hereof have been incorporated in their respective Base Production  
8 Rights under this Judgment.

9 **4. PRIVATE PUMPERS' WATER RIGHTS**

10 **4.1 Recognition of Rights.** The Private Pumpers are owners of  
11 Overlying or other water rights to pump from the Management Area. The Public  
12 Agencies recognize these rights, and do not intend to take or adversely impact  
13 these rights without an agreement with the owner of such rights. There is no intent  
14 to affect water use that is consistent with the historical use of the Private Pumpers.

15 **4.2 Non-Participation.** A [current or past](#) Private Pumper can elect  
16 not to participate in the Water Management Plan and not to formally acknowledge  
17 its existence. Such Pumpers are referred to as Non-Participants. Non-Participants  
18 shall continue to exercise whatever water rights they may hold under California  
19 law unaffected by the Plan. However, the Parties do not waive their rights to  
20 challenge any new or expanded use of water or water rights. Non-Participants will  
21 not have the option of intervening as a party under the Judgment at a later date.

22 **4.3 Class A Participation.** A Private Pumper can stipulate to be a  
23 party to the Judgment as a Class A Participant under the following terms:

24 4.3.1 A Class A Participant who or which approves this  
25 Physical Solution may vote for and/or be elected to serve as the Private Pumper  
26 representative on the Watermaster, but other than as set forth in Sections 4.3.4 and  
27 4.3.5, shall not otherwise have any obligation for the implementation of the  
28 Physical Solution or the Water Management Plan.

1                   4.3.2 A Class A Participant may, without any assessment by  
2 the Watermaster, pump from the Participant's property within the Management  
3 Area the amount of water that can be put to reasonable and beneficial use in the  
4 Participant's historic place of use or as authorized under California law.

5                   4.3.3 A Class A Participant shall have the right to convert to  
6 Class B Participation during a grace period that shall end 3 years after the entry of  
7 this Judgment, and upon payment of the total assessments, without interest, that  
8 the Class A Participant would have paid had the Class A Participant elected to be a  
9 Class B Participant from the [later of the initial production of groundwater or the](#)  
10 [entry of the Judgment hereinoutset.](#)

11                   4.3.4 A Class A Participant hereby authorizes the installation  
12 of water meters, and the collection and reading of Groundwater production, level  
13 and water quality data from the Class A Participant's well(s) by personnel  
14 authorized by the Watermaster. The metering, meter reading, and other related  
15 monitoring efforts shall be at no cost to the Class A Participant, and the Class A  
16 Participant shall receive copies of the reports and information obtained upon  
17 request.

18                   4.3.5 The Stipulation signed by a Class A Participant shall  
19 describe or otherwise identify the Participant's land and wells within the  
20 Management Area. The heirs, successors and assigns of such land and wells shall  
21 succeed to the benefits of the Participant's rights under the Judgment, and be  
22 bound by the obligations thereof, provided that such successor intervenes as a party  
23 under the Judgment. Absent such intervention, the successor will be treated as a  
24 Non-Participant.

25                   **4.4 Class B Participation.** A Private Pumper can stipulate to be or  
26 intervene as a party under the Judgment as a Class B Participant on the following  
27 terms:  
28

1                                   4.4.1 A Class B Participant's Base Production Right shall be  
2 equal to the Participant's average annual production during the calendar years 1995  
3 through 1999, less any amount of water that had been used on land that was  
4 developed for non-agricultural purposes after 1999, subject to adjustments by the  
5 Watermaster pursuant to Section 4.4.1.1. Any in-lieu water used during said  
6 period in place of groundwater production shall be treated as part of the  
7 groundwater production for calculating base production rights. The Class B  
8 Participant shall pay Replenishment Assessments on amounts in excess of its Base  
9 Production Right, subject to any Carry-Over Credit adjustments pursuant to  
10 Section 6.9.2, but shall not be subject to Administrative Assessments, and until  
11 transfer to a Public Agency, such Base Production Right shall not be subject to  
12 reduction to Safe Yield. In the absence of production history for the entire~~this~~  
13 period (1995-99), the Watermaster, using all available information including power  
14 consumption records and records of water use by similar farming operations in the  
15 area, will estimate the average annual production for the Participant.

16                                   4.4.1.1 In the event that the land of a Class B Participant  
17 or of a Class A Participant that requests conversion to Class B Participation did not  
18 go into production and/or began using groundwater for the first time after 1999, or  
19 in the absence of a sufficient production history or record, the Watermaster will  
20 determine the base production rights to be assigned to such Participant, using all  
21 information available to it.

22                                   4.4.1.2 Upon written request by a Class B Participant,  
23 the Watermaster shall have the authority to adjust the Class B Participant's base  
24 production rights for such period, and on such terms and conditions, as the  
25 Watermaster deems appropriate under the circumstances. For example, but not by  
26 way of limitation, the Watermaster could increase the Participant's base production  
27 rights on a temporary basis to permit increased groundwater production dry  
28 periods, or for frost protection, with or without a requirement that such increased

1 production be offset or “repaid” by a decrease in groundwater production during  
2 subsequent wet periods, or to account for added acreage or for a change in crops or  
3 use of the land or for a change in ownership. Where new trees were planted during  
4 the period 1995-1999, the Watermaster shall calculate the base production rights  
5 based on known or estimated water use at maturity of such trees.

6 4.4.2 The Class B Participant approves this Physical Solution  
7 and may vote for and/or be elected to serve as the Private Pumper’s representative  
8 on the Watermaster.

9 4.4.3 Upon conversion of a Class B Participant’s land from  
10 agricultural to a use that requires water service from a Public Agency, the Public  
11 Agency shall credit, to the extent legally permissible, the Class B Participant's  
12 Base Production Right, adjusted pursuant to the percentage reductions in Sections  
13 3.2.1 and 3.2.2, against any requirement then in effect for any water supply  
14 assessment requirements, and shall also provide the Class B Participant a credit  
15 equal to the fair market value of the Class B Participant’s base production rights, as  
16 determined by the Watermaster,~~or~~ against any fees associated with water supply  
17 that the Public Agency may then have in effect. The Public Agency serving the  
18 converted land shall receive a credit added to its Base Production Right as set forth  
19 in Section 3.2.4.

20 4.4.4 A Class B Participant is eligible to enter into a contract  
21 with the Watermaster, or a participating Public Agency, to sell or lease for a  
22 defined period of time the unused portion of the Class B Participant’s Base  
23 Production Right, under terms and conditions approved by the Watermaster.

24 Criteria used in consideration of such contract shall include:

25 4.4.4.1 The Water Management Plan’s need to  
26 acquire additional water supplies to address overdraft and recovery;

27 4.4.4.2 Submission of a water conservation plan,  
28 including use of In-Lieu Water, by the Class B Participant that will reasonably

1 guarantee conservation of water that would otherwise be produced from the  
2 Management Area; and the amount of conserved water transferred reflects a  
3 reduction pursuant to Sections 3.2.1 and 3.2.2.

4 4.4.4.3 Public policy considerations of local  
5 government jurisdictions, including economic, land use and community impacts of  
6 any proposed water conservation plan.

7 4.4.5 The Class B Participant hereby authorizes the installation  
8 of meters and the collection and reading of Groundwater production, water level  
9 and water quality data from the Class B Participant's well(s) by personnel  
10 authorized by the Watermaster. The metering, meter reading and other related  
11 monitoring efforts shall be at no cost to the Class B Participant, and the Class B  
12 Participant shall receive copies of the reports and information obtained upon  
13 request.

14 4.4.6 The Stipulation signed by a Class B Participant shall  
15 describe or otherwise identify the Participant's land and wells within the  
16 Management Area. The heirs, successors and assigns of such land and wells shall  
17 succeed to the benefits of the Participant's rights under the Judgment, and be  
18 bound by the obligations thereof, provided that such successor intervenes as a party  
19 under the Judgment. Absent such intervention, the successor will be treated as a  
20 Non-Participant. [A Class B Participant may transfer base production rights to new  
21 or replacement land on terms and conditions established by the Watermaster.](#)

22 **4.5 In-Lieu Water Use.** In the event [any](#) Private Pumper receives  
23 Supplemental Water from a Public Agency to serve an historic use in place of  
24 Groundwater, or otherwise engages in an in-lieu program [after entry of the  
25 Judgment herein](#), the Overlying Right of the Private Pumper shall not be  
26 diminished by the receipt and use of such Supplemental Water or by engaging in  
27 an in-lieu program. [In the event a Class B Participant received in-lieu water for  
28 use in place of groundwater during the period 1995-99, for purposes of](#)

1 [determining base production rights, said use shall be considered as groundwater](#)  
2 [use.](#)

3           **4.6 Future Production Participation.** Any new pumper after the  
4 entry of this Judgment may intervene in this action and Judgment only as a Class A  
5 Participant.

6           **4.7 Replacement Wells.** Re-drilling of existing wells and the  
7 drilling of new wells to replace existing wells will not be considered new  
8 production as provided in Section 4.6.

9           **5. TRIBAL WATER RIGHTS**

10           The Tribal Water Rights have been determined as part of a settlement  
11 among the Soboba Tribe, the United States, Eastern, Lake Hemet and  
12 Metropolitan. The settlement is reflected in a Settlement Agreement,  
13 Congressional legislation and appropriation of funds, and a Judgment in the  
14 Soboba Action. Such settlement includes the following provisions, which shall be  
15 effective only upon fulfillment of all of the conditions precedent set forth in Article  
16 3 of the Settlement Agreement, a copy of which is attached hereto.

17           **5.1 Senior Right.** The Soboba Tribe shall have a prior and  
18 paramount right, superior to all others, to pump 9000 acre-feet per year (3000 acre  
19 feet from the Canyon Subbasin and the remainder from a portion of the San Jacinto  
20 Upper Pressure Subbasin referred to as the Intake Subbasin), for use on the  
21 Reservation, as defined in Article 2.20 of the Settlement Agreement, and on lands  
22 now owned or hereafter acquired by the Soboba Tribe contiguous to the  
23 Reservation or within the Canyon and Intake Subbasins; provided, however, that  
24 such use shall be limited to amounts set forth in a development schedule from  
25 2,900 acre feet per year to 4,100 acre-feet per year for the first 50 years after the  
26 Effective Date as set forth in Exhibit "I" to the Settlement Agreement. The Tribe's  
27 right to pump applies to all Groundwater, whether replenished by Natural  
28 Recharge or by Supplemental Water. In addition, the Tribe shall have the right to

1 purchase additional water from the Watermaster during the fifty years that its use is  
2 limited according to Exhibit "I" to the Settlement Agreement at the rate then being  
3 charged to the Public Agencies under the Water Management Plan. In the event  
4 the Soboba Tribe is unable, except for mechanical failure of its wells, pumps or  
5 water facilities, to produce from its existing wells or equivalent replacements up to  
6 3,000 AFA production from the Canyon Sub-basin and the remainder of its Tribal  
7 Water Rights from the Intake Sub-basin, Eastern and Lake Hemet shall deliver any  
8 shortage to the Soboba Tribe as provided in Section 4.1C of the Settlement  
9 Agreement. Pumping for such purpose shall not be subject to Administrative or  
10 Replenishment Assessments, and shall not be counted as part of Adjusted  
11 Production Rights.

12                   **5.2 Metropolitan Water.** The Soboba settlement provides, among  
13 other matters, that Metropolitan will use its best efforts to deliver sufficient  
14 Imported Water to yield 7,500 acre-feet per year, based upon 15 year averages, for  
15 recharge in the Management Area at its untreated replenishment water rate, or any  
16 successor rate of equivalent price as provided in Section 4.4A of the Settlement  
17 Agreement.

18  
19                   **5.3 Settlement Payment.** Subject to the Effective Date of the  
20 Settlement Agreement and funding by the United States, Eastern pursuant to the  
21 terms set forth in the Water Management Plan, will pay the Soboba Tribe \$17  
22 million dollars pursuant to Article 4.7A of the Settlement Agreement in  
23 consideration, in part, of the Tribe's agreement to limit its water use according to  
24 Exhibit "I" to the Settlement Agreement for the first 50 years after the Effective  
25 Date. Subject to contracts with Eastern, the Public Agencies shall have the right to  
26 pump and use all Imported Water not used by the Tribe, and the unused portion of  
27 the Tribal Water Rights shall be available for use by the Parties, pursuant to their  
28 rights herein.

1                   **5.4 Capital Facilities.** Eastern on behalf of the Water Management  
2 Plan participants will receive \$10 million from the United States, to be applied to  
3 the costs of constructing and operating the Phase I capital facilities necessary to  
4 import and recharge Supplemental Water as described in the Plan.

5                   **5.5** Additional grant funds from the State of California or the  
6 United States may also be available for such capital facilities. The rights of the  
7 Public Agencies to the use of such facilities will be affirmed by contract as set  
8 forth in Sections 9.6.4(1) and 9.6.4(3).

9                   **5.6 Acknowledgement of Soboba Tribe Settlement.** The Parties  
10 to this Judgment hereby recognize the Tribal Water Rights, as set forth above, and  
11 the applicable provisions of the Soboba Tribe Settlement Agreement, and  
12 acknowledge that protection of Tribal Water Rights is one of the goals of the  
13 Water Management Plan.

14                   **6. PHYSICAL SOLUTION.**

15                   **6.1 Purpose and Objective.** Pursuant to California water law and  
16 the California Constitution, article X, section 2, the Court adopts this Physical  
17 Solution to maximize reasonable beneficial use of Surface Water, Groundwater  
18 and Supplemental Water for water users in or dependent upon the Management  
19 Area, to eliminate overdraft, to protect the prior rights of the Soboba Tribe, and to  
20 provide the Parties with the substantial enjoyment of their respective rights,  
21 including, the priorities thereof.

22                   **6.2 Need for Flexibility.** In order to adapt to potential changes in  
23 hydrology, land use, and social and economic conditions, the Physical Solution  
24 must provide some degree of flexibility and adaptability. Accordingly, the Court  
25 retains broad jurisdiction to supplement the discretion granted to the Watermaster  
26 herein.

27                   **6.3 Rights to Groundwater.** Groundwater in the Management  
28 Area may occur from: natural recharge; spreading operations of natural flows;

1 recharge with Supplemental Water acquired with Assessment funds; return flows,  
2 fallowing or in-lieu recharge programs financed with Assessment funds. All such  
3 Groundwater shall be available to support the pumping of the Parties as allowed  
4 herein, and shall not be the property of any individual Party. Subject to the  
5 provisions of Section 6.7.2, this Section does not preclude any Party, pursuant to a  
6 Storage Agreement, from storing Supplemental Water at its own cost, retaining  
7 title thereto, and pumping such water without Assessment.

8 **6.4 Resolution of Priorities.** By reason of the long and continuous  
9 overdraft of the Management Area, the contribution of all parties to the overdraft,  
10 the economies that have developed on the basis of the overdraft, the severe  
11 economic disruption that could occur under strict priorities and the doctrines of  
12 prescription and laches, the complexity of determining appropriative priorities, and  
13 the need to make the maximum beneficial use of the water resources of the State,  
14 the Parties are estopped and barred from asserting specific priorities or preferences  
15 to the pumping of groundwater in the Management area, except as provided in this  
16 Judgment, and the Court finds that the provisions of this Judgment provide for the  
17 substantial enjoyment of the respective rights of the Parties.

18 **6.5 Water Management Plan.** The Watermaster will approve and  
19 implement a Water Management Plan to enforce and implement the Physical  
20 Solution, and may modify such Plan as conditions require, subject to the provisions  
21 of the Settlement Agreement. The Plan will also facilitate and accommodate the  
22 settlement of the water rights of the Soboba Tribe, and shall be subject to the  
23 approval of the Soboba Tribe and the United States as trustee for the Tribe. The  
24 Parties agree that the Plan shall incorporate and serve to implement the following  
25 goals:

26 6.5.1 Groundwater levels within the Management Area have  
27 generally been declining for a number of years, and the Management Area is  
28 presently in a condition of Overdraft. [The Watermaster shall calculate the safe](#)

1 yield of the Management Area on an annual basis, at least until the overdraft is  
2 substantially eliminated. The Plan will, within a reasonable period, eliminate  
3 Groundwater Overdraft and provide for excess production by implementing a  
4 combination of available water resources management elements. These elements  
5 include: reduction in natural Groundwater production; enhanced Recharge with  
6 native and/or Supplemental Water; increased use of recycled water; in-lieu  
7 replenishment; acquisition and development of Supplemental Water; and water  
8 conservation programs.

9                   6.5.2 The Management Area is expected to experience  
10 residential, commercial, and industrial growth and development over the next  
11 decade. The estimated amount of Supplemental Water that will be necessary to  
12 provide for and adequately serve this new growth and development is 15,000 acre  
13 feet per year. The Water Management Plan shall accommodate the orderly  
14 expansion of existing water production and service systems, and provide a clear  
15 planning process for meeting these projected growth trends.

16                   6.5.3 The Plan should be implemented in a manner to protect  
17 and/or enhance Management Area water quality.

18                   6.5.3.1       The Watermaster is authorized to undertake  
19 direct operations in connection with reducing, controlling or dealing with  
20 Groundwater Degradation, including development or purchase of water supplies of  
21 any nature (local private rights, imported water, recycled water, salvaged water,  
22 and/or low quality water).

23                   6.5.3.2       The Watermaster is also authorized to  
24 provide incentives to the Public Agencies or other Groundwater producers to  
25 encourage production of Degraded Groundwater as the Watermaster deems  
26 appropriate. For example, the Watermaster could provide that all or some portion  
27 of such production would not be charged against the producer's Base Production  
28 Rights and/or could adjust or not impose the Administrative and/or Replenishment

1 Assessment otherwise due. The Watermaster may determine the appropriate  
2 incentives on a case-by-case basis or may establish a formula or schedule that  
3 would reflect or be based on benefits to the Management Area resulting from such  
4 production.

5                                   6.5.3.3        If implementation of certain elements of the  
6 Plan causes limited localized water quality Degradation and such Degradation  
7 impedes the then current beneficial uses of water by any Public Agency in the  
8 Management Area, the Watermaster shall implement appropriate mitigation  
9 measures to ensure the water supply to the affected Public Agency, and shall bear  
10 the associated cost.

11                                   6.5.3.4        The standards for local water quality  
12 Degradation shall be defined by the Watermaster, and such definitions may be  
13 amended from time to time.

14                                   6.5.4        The Water Management Plan should serve to support the  
15 pursuit of cost-effective water supply and water treatment by the Public Agencies,  
16 both individually and collectively.

17                                   6.5.5        The Water Management Plan should serve to protect  
18 Tribal Water Rights.

19                                   6.5.6        The Watermaster shall implement a monitoring program  
20 to ensure that Plan activities follow best management and engineering principles to  
21 protect Management Area water resources, and to compile and analyze data on  
22 groundwater production, water levels, water quality and groundwater in storage.

23                                   **6.6    Replenishment Program.** The groundwater replenishment  
24 program shall be administered by the Watermaster. The program shall include: the  
25 acquisition of Supplemental Water; the collection and expenditure of  
26 Replenishment Assessments; the recharge of the Management Area; and the  
27 construction and operation of all necessary facilities, including but not limited to,  
28 development of surface and sub-surface percolation and injection facilities. In

1 addition, a source of Recharge Water for agencies contributing to the Settlement  
2 Payment described in Section 5.3 will be Imported Water provided by  
3 Metropolitan under the Settlement Agreement, and not used by the Soboba Tribe.

4 6.6.1 Priority for replenishment will be based on an equitable  
5 apportionment of available replenishment water among the sub-basins after full  
6 consideration of:

7 6.6.1.1 The Public Agency's participation in the payment  
8 in the Settlement Payment described in Section 5.3.

9 6.6.1.2 Hydrologic conditions in the Management Area.

10 6.6.1.3 The Management Area's Water demands.

11 6.6.1.4 The availability of storage capacity to  
12 accommodate the Natural Recharge of surface flows.

13 6.6.1.5 The availability of appropriate conveyance  
14 facilities.

15 6.6.1.6 The availability of Supplemental Water,

16 6.6.1.7 Protection of Tribal Water Rights.

17 6.6.2 The Watermaster is encouraged to take advantage of  
18 surplus imported water from Metropolitan that occasionally may be available at  
19 low cost, and to use available Assessment funds to bank such Recharge Water  
20 against future production in excess of Adjusted Production Rights.

21 6.6.3 The Public Agencies shall independently or jointly  
22 operate their present facilities to maximize the existing spreading and Recharge  
23 operations of natural flow in the Management Area. Such Recharge Water shall be  
24 available to support the pumping of all users, and shall not be the property of the  
25 spreading Public Agency.

26 6.6.4 All water used to replenish any sub-basin in the  
27 Management Area shall meet the Regional Water Quality Control Board, Santa  
28

1 Ana Region requirements, and the provisions of Article 4.2 of the Settlement  
2 Agreement, and may be used in any sub-basin where such requirements are met.

3 **6.7 Storage Rights.** Unused storage capacity may exist in the  
4 Management Area, and this capacity will be managed by the Watermaster  
5 conjunctively with natural and available Supplemental Water supplies.

6 6.7.1 Subject to availability of Assessment funds and unused  
7 storage capacity as determined by Watermaster, the Management Area may be  
8 Recharged when water is available, to be drawn upon by the Public Agencies in  
9 later years when such Supplemental Water may not be available.

10 6.7.2 Unused storage capacity, as determined by Watermaster,  
11 and pursuant to a Storage Agreement, may be used for “put and take” operations  
12 with Supplemental Water that is paid for by any Public Agency provided that:

13 6.7.2.1 Such operations do not interfere with the rights  
14 of any other pumper, or with the use of the storage capacity for recharge and  
15 storage under the Water Management Plan.

16 6.7.2.2 The Watermaster shall have the first right to  
17 purchase any water available for Recharge for use under the Plan.

18 6.7.2.3 Later recovery of Stored Water shall exclude  
19 losses, and shall not be subject to either Administrative or Replenishment  
20 Assessments.

21 6.7.2.4 Such recovered water may be used anywhere  
22 within the service area of the Party.

23 6.7.2.5 Such Stored Water may be transferred while still  
24 in storage.

25 6.7.3 Any conjunctive use programs within the Management  
26 Area for the benefit of territory outside of the Management Area shall be subject to  
27 the Watermaster’s approval and the governance provisions herein. Any storage,  
28 conjunctive use programs by third parties, or in-lieu recharge programs financed

1 with assessment funds, shall be subject to the Watermaster's approval and the  
2 governance provisions herein; provided that Metropolitan has the right under the  
3 Soboba Settlement Agreement to use up to 40,000 acre-feet of storage capacity in  
4 the San Jacinto Upper Pressure Sub-basin for the pre-delivery of water required  
5 under Section 5.2.

6           6.7.4 Eastern and Lake Hemet have previously provided water  
7 for replenishment of the Management Area. As of May 1, 2005 these amounts,  
8 less losses, were 12,694 acre-feet for Eastern and 950 acre-feet for Lake Hemet  
9 Such Parties shall have Recharge Rights to recover these amounts, less any future  
10 losses, without either Administrative or Replenishment Assessments, and may use  
11 such Rights to offset excess pumping in lieu of Replenishment Assessments. The  
12 water available under such Recharge Rights shall be pumped within 15 years of the  
13 entry of this Judgment, but not more than 2000 acre-feet in a single year. The  
14 Public Agencies shall notify the Watermaster when such Recharged Water is being  
15 pumped, and in what amounts, and the Watermaster shall keep an accounting of  
16 the amounts remaining. The use of such credits shall be interpreted and  
17 administered so as not to increase the replenishment obligations or assessments of  
18 those parties without such past credits, or after such credits have been fully used.

19           6.7.5 The accounting for recovery of Stored Water or Recharge  
20 Water from the Management Area shall not include any water that escapes  
21 therefrom and migrates downstream beyond the Management Area. Losses will be  
22 calculated based upon best engineering principles.

23           **6.8 Recycled Water.** The use of Recycled Water produced by  
24 Eastern can be of substantial benefit in providing additional water in the  
25 Management Area. The Watermaster shall have a right of first refusal to purchase  
26 all recycled water produced from treatment facilities serving the Management Area  
27 that is not subject to then existing contracts. Such recycled water may be used for  
28 recharge or direct use within the Management Area..

1                   6.8.1 Each Public Agency may implement its own Recycled  
2 Water program, for direct use, subject to the availability of recycled water. The  
3 Public Agency shall be responsible for financing, operating and maintaining the  
4 facilities necessary for that program. The Watermaster will support loan or grant  
5 applications, and the Public Agencies will work to integrate Recycled Water into  
6 the Water Management Plan, to the extent economically feasible while meeting  
7 regulatory standards.

8                   6.8.2 Currently only Eastern has Recycled Water available for  
9 Recharge. To the extent such Recycled Water is not acquired by the Watermaster  
10 for use under the Plan, any such water recharged in the Management Area shall  
11 remain the property of Eastern and may be pumped (less losses) without  
12 Replenishment Assessments.

13                   **6.9 Assessment Program.** The assessment program contemplated  
14 by the Water Management Plan and consisting of Administrative Assessments and  
15 Replenishment Assessments as described in Sections 1.2, 1.30, and 3.3,  
16 respectively, shall be administered by Eastern pursuant to a contract with the  
17 Watermaster pursuant to the provisions of Section 9.6.4(5).

18                   6.9.1 All Assessments shall be used for Replenishment  
19 Expenses and Administrative Expenses.

20                   6.9.2 Subject to the limitations in this Judgment, each Public  
21 Agency that produces less than its Adjusted Production Right and share of  
22 Imported Water, and any Class B Participant producing less than its Base  
23 Production Right, shall have the following Carry-Over Credit:

24                   6.9.2.1 Carry-Over Credit shall be the difference in acre-  
25 feet between a Public Agency's Adjusted Production Right and share of Imported  
26 Water and Supplemental Water, and the Public Agency's actual production in a  
27 calendar year, or the Class B Participant's Base Production Right and the Class B  
28 Participant's actual production in a calendar year.



1 specific criteria for the export of water, including, but not limited to, conjunctive  
2 use programs.

3           **6.11 Capital Facilities.** Each Public Agency shall continue to own  
4 its existing capital facilities for water supply and management, subject to the  
5 provisions of Section 9.6.6. However, the Phase I capital facilities necessary to  
6 implement the Water Management Plan shall be owned and operated by Eastern,  
7 pursuant to the Plan and in a fiduciary capacity for the benefit of all Parties under  
8 this Judgment, pursuant to Sections 5.4; 9.6.4(1); 9.6.4(3).

9           6.11.1 Financing of Water Management Plan facilities may be  
10 funded by Assessments, regional capital fees, loans and grants, contributions for  
11 storage rights by Metropolitan or other third-parties, and municipal bonds.  
12 Responsibility for the costs of future capital facilities necessary to implement the  
13 Plan, beyond the Phase I facilities, shall be determined by the Watermaster and  
14 apportioned based on relative benefit to be derived by each Public Agency.

15           6.11.2 Any of the participating Public Agencies may propose  
16 projects to be included in the Water Management Plan to increase the Management  
17 Area water supply. Such proposals, after evaluation by the Watermaster, shall be  
18 included or rejected. If the Watermaster chooses to reject the proposal, the  
19 proposing Public Agency may implement the rejected project at its own cost so  
20 long as it does not significantly impact the implementation of the Management  
21 Plan and/or interfere with the ongoing production by the Public Agencies.

22           **7. INJUNCTION.**

23           Each Party and his, her or its officers, agents, employees, successors  
24 and assigns, is enjoined and restrained from:

25           7.1 Producing water from the Management Area without payment  
26 of required Administrative Assessments.

27           7.2 Producing water from the Management Area in excess of the  
28 Party's Adjusted Production Right and share of Imported Water, or the Base

1 Production Right in the case of a Class B Participant, without payment of required  
2 Replenishment Assessments.

3 7.3 Transferring Production Rights except as authorized in this  
4 Judgment.

5 7.4 Recharging water in the Management Area except as authorized  
6 in this Judgment.

7 7.5 Storing or exporting water except as authorized in this  
8 Judgment.

9 8. CONTINUING JURISDICTION.

10 8.1 Full Jurisdiction. Full jurisdiction, power and authority is  
11 reserved to the Court as to all matters contained in this Judgment, including  
12 expedited intervention by successors in interest to Private Pumpers, except:

13 8.1.1 To redetermine Base Production Rights of the Public  
14 Agencies or Class B Participants.

15 8.1.2 As otherwise limited by law.

16 8.2 Motion to Interpret. By motion to the Court, upon 30 days  
17 written notice and after hearing, any Party or Watermaster may request the Court  
18 to make such further or supplemental orders to interpret, enforce, carry-out or  
19 amend this Judgment. Any such motion shall be reviewed de novo by the Court.  
20 Any such motion shall be served on all Parties and Watermaster at the addresses on  
21 the Watermaster's notice list.

22 9. WATERMASTER.

23 9.1 Composition. The Watermaster shall consist of a board  
24 composed of one elected official selected by each of the Public Agencies and one  
25 Private Pumper representative selected by the Class A and Class B Private  
26 Pumpers.

1                   **9.2    Terms.** Each member of the Watermaster shall serve until  
2 replaced by the Public Agency or Private Pumpers that made the original  
3 appointment.

4                   **9.3    Removal and Replacement.** Any Watermaster member may  
5 be removed and replaced by the same procedure used in his or her appointment.

6                   **9.4    Voting.** Each member of the Watermaster shall have one vote.  
7 Four affirmative votes shall be required in order to constitute Watermaster action  
8 on each of the following matters. (1) any change sought in the form of  
9 governance; (2) any change in voting requirements; (3) retaining the services of  
10 legal counsel and Advisor; (4) establishing, levying, increasing or decreasing all  
11 assessment amounts; (5) adopting or amending an annual budget; (6) determining  
12 the extent of overdraft and quantifying safe yield; (7) determining Adjusted  
13 Production Rights; (8) decisions regarding the financing of Supplemental Water or  
14 facilities, other than any financing provisions included in this Stipulated Judgment  
15 as provided in Sections 5.3, 5.4, 5.5 hereof; (9) decisions regarding ownership of  
16 facilities, other than ownership of the Phase I facilities described in the Water  
17 Management Plan, which shall be owned by Eastern Municipal Water District,  
18 subject to a right of use by those parties participating in the financing thereof; (10)  
19 policies for the management of the Management Area; (11) and any decision that  
20 involves a substantial commitment by the Watermaster, including any contracts for  
21 conserved water. All other actions by the Watermaster shall require three  
22 affirmative votes.

23                   **9.5    Court Review.** Any action by the Watermaster, or any failure  
24 to act by virtue of insufficient votes, may be reviewed by the Court on motion by  
25 any party, with notice to all other parties. The Court's review shall be de novo,  
26 and the Court's decision shall constitute action by the Watermaster.

27                   **9.6    Powers and Duties.** In order to implement the provisions of  
28 this Judgment, the Watermaster shall have the following duties and powers:

1                                   **9.6.1 Water Management Plan.** Watermaster shall develop  
2 and implement a Water Management Plan, with such additions and modifications  
3 as may from time to time be appropriate, and shall administer the provisions of this  
4 Judgment. The Water Management Plan shall be subject to approval by the Court,  
5 by the Soboba Tribe, and by the United States.

6                                   **9.6.2 Independent Counsel.** The Watermaster shall retain  
7 independent legal counsel to provide such legal services as the Watermaster may  
8 direct.

9                                   **9.6.3 Advisor.** The Watermaster shall retain either an  
10 independent engineering firm or qualified individual experienced in hydrology to  
11 evaluate and analyze the data collected by Eastern, and any conclusions based  
12 thereon, and to make recommendations to the Watermaster, referred to herein as  
13 “Advisor.” The Advisor shall also provide general coordination among Eastern,  
14 the Technical Advisory Committee and the Watermaster with respect to their  
15 respective functions, and perform such executive functions as the Watermaster  
16 may direct. The Watermaster reserves the right to refer any matter it may choose  
17 to any person it may select for assistance in carrying out its duties under this  
18 Judgment.

19                                   **9.6.4 Operations and Other Functions.**

20                                   **9.6.4.1 Operations – Phase I Facilities.** The Phase I  
21 Facilities (including capital facilities and spreading basins, as more particularly  
22 defined in the Water Management Plan) are either existing facilities of Eastern that  
23 will be expanded or improved as part of the Water Management Plan, or are new  
24 facilities that will be integrated into Eastern’s existing facilities and will be owned  
25 by Eastern. Pursuant to the terms and conditions of contracts to be entered into  
26 between Eastern and the Watermaster, and Eastern and the other Public Agencies,  
27 Eastern shall construct, install, and operate the Phase I Facilities consistent with  
28 the Water Management Plan.





1 Committee shall continue to function, and to provide such technical assistance as  
2 the Watermaster may request. The Technical Advisory Committee shall make  
3 recommendations to the Watermaster's Advisor and to the Watermaster on all  
4 matters requiring four votes for Watermaster action, and shall receive from Eastern  
5 all data associated with such matters for its review and evaluation. The Technical  
6 Advisory Committee and its members shall also function as a way to keep the City  
7 Councils, Boards of Directors and participating Private Pumpers fully informed  
8 about the implementation of this Judgment.

9 **9.6.6 Reservation of Rights.** The Watermaster reserves the  
10 right to assume, on its own, any functions set forth in Section 9.6.4, except as  
11 provided in Section 9.6.4(1), and to undertake all other acts required to implement  
12 the Plan and this Judgment, so long as it is legally capable of performing such  
13 functions. The Watermaster, if it should choose, may also act through or in  
14 conjunction with the other Public Agencies, or through a Joint Powers Agency  
15 composed of all the Public Agencies hereunder. Except as specifically provided in  
16 Section 9.6.4(1) with respect to Eastern's facilities used in Phase I, the  
17 Watermaster shall have no right to use or acquire the water facilities of any of the  
18 Parties, without their consent, provided that it is the intent of the Parties that their  
19 individual facilities will be available where appropriate to implement the Water  
20 Management Plan, upon terms equitable to all parties, and consistent with their  
21 respective obligations to their own customers.

22 **9.6.7 Rules and Regulations.** The Watermaster may make  
23 such rules and regulations as may be necessary for its own operations as well as for  
24 the operation of the Plan and this Judgment, subject to Court approval. Meetings  
25 of the Watermaster shall be subject to the Brown Act .

26 **9.6.8 Reports to Court.** The Watermaster shall file annually  
27 with the Court, and serve on all Parties, a report regarding its activities during the  
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1 preceding year, including an audited statement of all accounts and financial  
2 activities.

3 **9.6.9 Notice to Parties.** Watermaster shall maintain a current  
4 list of the Parties and their addresses for notice purposes. Rules for service shall be  
5 governed by the California Code of Civil Procedure and the California Rules of  
6 Court. Each Party shall notify Watermaster in writing of the name and address for  
7 its receipt of notice and service under this Judgment. A Party may change this  
8 information by written notice to Watermaster. Notice shall be deemed sufficient if  
9 directed to the most recent address provided by the Watermaster.

10 **9.7 Watermaster Records.** Watermaster's records shall be kept at  
11 the office of Eastern unless changed by the Watermaster and approved by the  
12 Court. These records shall be treated as public records under the Public Records  
13 Act. California Government Code sections 6250-6277 (West 1995 and Supp.  
14 2002).

15 **10. MISCELLANEOUS.**

16 **10.1 Intervention After Judgment.** A New Pumper can intervene  
17 in this action as a Class A Participant only, pursuant to Section 4.6. Any other  
18 person Any Person who is not a Party and who proposes to Produce water from the  
19 Management Area, or who is an heir, successor or assign of an existing party, may  
20 become a Party to this action and Judgment, subject to the conditions contained  
21 herein, by filing a petition in intervention. The petition may be filed and  
22 approved ex parte with notice to the Watermaster. Such intervener shall thereafter  
23 be a Party bound by this Judgment, and entitled to the rights and privileges  
24 accorded under this Judgment to the Party such person succeeds in this action.

25 **10.2 Loss of Rights.** No right adjudicated in this Judgment shall be  
26 lost by non-use, abandonment, forfeiture or otherwise, except upon a written  
27 election by the owner of the right filed with Watermaster, or by order of the Court  
28 upon noticed motion and after hearing.

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**10.3. Attorney's Fees and Costs.** No Party shall recover any attorney's fees or costs in this proceeding from any Party.

DATED: \_\_\_\_\_

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

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EXHIBIT B

List of Parties to this Judgment

1. Parties

- A. Eastern Municipal Water District (“Eastern)
- B. Lake Hemet Municipal Water District (“Lake Hemet”)
- C. City of Hemet (“Hemet”)
- D. City of San Jacinto (“San Jacinto”)

2. Class A Participants

- A.
- B.
- C.
- D.

3. Class B Participants

- A.
- B.
- C.

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Exhibit C

Base Production Rights

1. Public Agencies

Agency Name	Base Production Rights (Acre-feet per year)
Eastern Municipal Water District	10,869
Lake Hemet Municipal Water District	11,063
City of Hemet	6,320
City of San Jacinto	4,031

2. Class B Participants

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