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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

CHINO BASIN MUNICIPAL WATER
DISTRICT,

Plaintiff and Respondent,

v.

CITY OF ONTARIO, et al,

Defendants and Appellants;

CHINO BASIN WATERMASTER, et al,

Defendants and Respondents.

E080533

(Super.Ct.No. RCVRS 51010)

OPINION

APPEAL from the Superior Court of San Bernardino County. Gilbert G. Ochoa,
Judge. Affirmed.

NOSSAMAN LLP, Frederic A. Fudacz, Jennifer L. Meeker and Gina R Nicholls,
for Defendant and Appellant, City of Ontario.

Jimmy L. Gutierrez Law Corporation, Jimmy L. Gutierrez; Pollak, Vida & Barer
and Daniel P. Barer, for Defendant and Appellant, City of Chino.

Brownstein Hyatt Farber Schreck, LLP, Scott S. Slater, Bradley J. Herrema and Laura K. Yraceburu, for Defendant and Respondent, Chino Basin Watermaster.

JC Law Firm, Jean Cihigoyenette and J. Martin Cihigoyenette, for Defendant and Respondent, Inland Empire Utilities Agency.

A 1978 stipulated judgment (Judgment) governs several parties' water rights in the Chino Groundwater Basin (Basin) by establishing the Basin's governance structure, providing judicial oversight via continuing jurisdiction provisions, and creating the Chino Basin Watermaster (Watermaster). To achieve full utilization of the Basin's resources, Watermaster adopted a long-term management program—the 1999 Optimum Basin Management Program (OBMP). Since the OBMP involves numerous public agencies undertaking activities that may cause direct or indirect physical environmental harm, when applicable, it has complied with mandates set forth in the California Environmental Quality Act, Public Resources Code section 21000 et seq. (CEQA). To finance this compliance, along with its operation, Watermaster establishes an annual budget and assesses parties to the Judgment.

In this appeal, defendants and appellants City of Ontario (Ontario) and City of Chino (Chino), two of the parties to the Judgment, challenge Watermaster's fiscal year (FY) 2022/2023 budget that includes appropriations for environmental review of the 2020 updated OBMP (OBMPU). Appellants present the following issues:

(1) Whether Watermaster may appropriate and expend funds for the environmental review of the OBMPU; and

(2) Whether Watermaster may designate Inland Empire Utilities Agency (IEUA)¹ as the lead agency to conduct such review.

We conclude the superior court correctly denied appellants’ motions challenging Watermaster’s FY 2022/2023 budget to the extent it appropriated and assessed the parties the cost of the environmental review of the OBMPU.

I. PROCEDURAL BACKGROUND AND FACTS

In 1975, Chino Basin Municipal Water District initiated this action against several parties to adjudicate their rights and obligations with respect to groundwater in the Basin. Three years later, the parties stipulated to the Judgment, which established a “physical solution” and allowed the superior court to retain and exercise jurisdiction via the appointment of Watermaster, an arm of the court. The Judgment, including all amendments, was restated and reentered in 2012.

The Judgment established three “Pools” of parties with water interests in the Basin: Overlying Agricultural Pool (Ag Pool), Overlying Non-Agricultural Pool (Non-Ag Pool), and Appropriative Pool (Ap Pool). The Pools are responsible for costs of replenishment water and other aspects of the physical solution. Each Pool has a committee that administers its internal affairs, employs its own separate counsel, and may seek judicial review of any Watermaster action or failure to act. The Pool Committees

¹ IEUA “is a municipal water district which provides wastewater treatment services to the cities of Chino, Chino Hills, Fontana, Ontario, Montclair, Upland as well as the Cucamonga Valley Water District. IEUA is also a member agency of the Metropolitan Water District of Southern California and facilitates the delivery of imported water to local agencies in the Chino basin.”

“jointly form an Advisory Committee to [advise and] assist Watermaster in performance of its functions under” the Judgment. The Advisory Committee is “composed of ten (10) voting representatives from each pool, as designated by the respective Pool Committee *in accordance with each pool’s pooling plan.*” The voting power on the Advisory Committee is 100 votes “allocated among the three pools in proportion to the total assessments paid to Watermaster during the preceding year.” Currently, the voting power of each pool on the Advisory Committee is as follows: Ag Pool-20 votes, Non-Ag Pool-5 votes, and Ap Pool-75 votes. Appellants are members of the Ap Pool.

Watermaster is a nine-member board, comprised of representatives of parties to the Judgment, including representatives from each Pool. It administers and enforces the Judgment and any subsequent instructions or orders of the superior court. It has express powers and duties as provided in the Judgment or as ordered or authorized by the court; however, it may “not contract with or purchase materials, supplies or services from IEUA, except upon the prior recommendation and approval of the Advisory Committee and pursuant to written order of the Court.” At the court’s direction, in 1999, Watermaster prepared the management program—the OBMP—to address the Basin’s water quality issues. The OBMP has two phases: Phase I (the report) was adopted in 1999, and Phase II (implementation plan) was submitted to the superior court for approval in 2000.

In 1999, Watermaster suggested, and the parties (except Monte Vista Water District) agreed, to conduct a CEQA evaluation of the OBMP via preparation of a “Program Environmental Impact Report (‘PEIR’).” The parties reasoned that since the

“OBMP is likely to involve numerous public agencies undertaking activities that may cause direct as well as indirect physical environmental harm,” a PEIR is necessary because “certain programs within the OBMP will necessitate further project-specific CEQA evaluation, such as the desalter program.”² Thus, on November 18, 1999, the superior court approved the decision to prepare a PEIR and the designation of IEUA as the lead agency; completion of the PEIR was scheduled for May 17, 2000.

In preparation for development of the OBMP PEIR, Watermaster budgeted for and assessed the parties for expenses associated with the CEQA review in FY 1998/1999 and 1999/2000. On June 29, 2000, the parties executed the Peace Agreement (Peace I) to facilitate implementation of the OBMP. According to Peace I, the parties agreed that no project subject to CEQA review would be carried out unless and until the environmental review and assessments have been completed. Peace I’s recitals state that the draft PEIR for the OBMP was completed and circulated to the parties prior to execution of Peace I. Certification of the OBMP PEIR was a condition for court approval of Peace I. Peace I was amended in 2004 and 2007.

In 2007, the parties entered into the Peace II Agreement (Peace II) wherein they agreed to support Watermaster’s OBMP implementation plan, acknowledged IEUA as the properly designated lead agency for the purpose of completing environmental assessment and review of the proposed project, identified the project as “the design,

² A PEIR “is not an approval of a specific project at a level that would allow implementation. It’s more . . . high level and used to enable thought process and integrating actions.”

permitting, construction and operation of Future Desalter [and] securing Hydraulic Control through Basin Re-Operation,” and accepted their “commitments regarding the funding, design, construction and operation of Future Desalters.” A resolution attached to Peace II provides that “Watermaster will continue to require that to the extent any of the Peace II Implementing Measures constitute ‘projects’ within the meaning of [CEQA], compliance with CEQA will be required as a precondition of Watermaster’s issuance of any final, binding approvals.” Subsequently, funds were budgeted and expended to develop the project (expanded desalting and re-operation programs as stated in Exhibit 1 of Peace II), and Watermaster conducted macroeconomic and microeconomic studies, and “caused the completion of a preliminary engineering, hydrogeologic, and technical evaluation of the physical impacts to the Basin” resulting from implementation of Peace II measures. IEUA continued to serve as lead agency for environmental review relating to Peace II.

By 2017, water storage capacity of the Basin had exceeded 500,000 acre feet (AF). However, the Peace Agreements and the OBMP Implementation Plan had established rules and procedures for stored water up to a maximum of 500,000 AF, designated as the Local Storage Limitation Solution. Storage of the increased amount was temporarily authorized from June 2017 until June 30, 2021. IEUA (again as lead agency) certified an addendum to the OBMP PEIR (AddPEIR) stating a temporary increase in storage would have no undesirable results.

In 2020, Watermaster began a facilitated process for negotiation of the OBMPU, an update to the OBMP, to address storage capacity over 500,000 AF, holding orientation

and drafting sessions on March 2 and 16, 2020. Cost for the updated PEIR (PEIRU) for the OBMPU (which focused on groundwater storage management within the Basin—as high as 1,000,000 AF) had been added to the FY 2019/2020 budget; none of appellants challenged Watermaster’s budgeting process or the manner in which its technical consultant and legal counsel participated in the development and review of the OBMPU PEIRU. The budget amendment for CEQA work for the OBMPU PEIRU was unanimously recommended for approval by the Ap Pool Committee and unanimously approved by the Advisory Committee. On March 26, 2020, the process for negotiation of the OBMPU was paused due to the COVID-19 pandemic, and the parties focused attention on the local storage limitation solution.

Nonetheless, IEUA prepared a draft OBMPU PEIRU that analyzed the anticipated projects and facilitated the parties’ eligibility for grant funding for the activities reviewed in the OBMPU. However, on the day IEUA’s board of directors was to consider the item, Ontario transmitted a letter to IEUA alleging deficiencies in the draft OBMPU PEIRU. Thus, IEUA’s board of directors did not certify the draft OBMPU PEIRU. However, since Watermaster and the parties to the Judgment had vastly exceeded the initial expectations for storing water in the Basin, Watermaster requested the superior court issue an order “for the management of all quantities of water held in storage in amounts from 500,001 AF up to a maximum of 700,000 AF until June 30, 2030, and thereafter a maximum of 620,000 AF until June 30, 2025.” The court was informed that on March 17, 2021, IEUA (again as lead agency) had certified a second addendum to the OBMP PEIR (2ndAddPEIR), which “concluded there were no

significant unavoidable adverse impacts attributable to the adoption and implementation of the [local storage limitation solution].” Like AddPEIR, the consent of all signatories to the Peace Agreements was not required for the 2ndAddPEIR because Watermaster only sought to supplement (not amend or modify) the Peace Agreements and the OBMP Implementation Plan.

After COVID-19 restrictions were lifted, preparations for the OBMPU PEIRU resumed. Watermaster included funding for activities necessary to complete the environmental review of the OBMPU in its FY 2022/2023 budget, and presented its proposed budget to the Advisory Committee for approval. On May 19, 2022, the Advisory Committee (by majority vote of 72.141 percent) approved the FY 2022/2023 budget in the amount of \$9,490,976. One week later, over appellants’ objections, Watermaster adopted the FY 2022/2023 budget that allocated \$402,999 (\$276,799 for environmental review/technical work and \$126,200 for legal support) to fund a Program Environmental Impact Report for the OBMPU (OBMPU PEIRU) and to assist the parties in coming to an agreement regarding the amendment of the OBMP Implementation Plan.

Appellants objected. In response, on July 28, 2022, Watermaster provided a staff report that addressed the need for the OBMPU PEIRU. The report explained that the 22-year-old PEIR “is stale for purpose of addressing current conditions in a manner sufficient to secure State and Federal funding^[3] and to properly inform the Court, the

³ “[W]hen you start developing projects conceptually, it also means that we can apply for grants in the State. So that’s something that our project manager IEUA does for us. [¶] And thus far, since we started projects, grants have covered about . . . 50 percent
[footnote continued on next page]

parties to the Judgment, and the public generally of potential environmental impacts attributable to new projects.” The draft OBMPU PEIRU was prepared in 2020, but stakeholder concerns prevented its certification in favor of focusing on approving only environmental coverage of the local storage limitation solution. However, given the record water shortage conditions facing California, “[c]ooperative regional solutions like the OBMP play a critical role in meeting [both people and the economy’s] needs.” Thus, the FY 2022/2023 budget included costs to complete CEQA review for the OBMPU.

On July 28, 2022, Watermaster held a special meeting to attend to appellants’ concerns. At the meeting, Watermaster staff discussed the Basin’s history, the Judgment and the Peace Agreements, IEUA’s role as lead agency for the OBMP PEIR, and the continuing water issues facing the parties. The purpose of the special meeting was to address the inclusion of the cost of preparing a “programmatic environmental analysis of the [OBMPU (OBMPU PEIRU)]” in the FY 2022/2023 budget. It was noted that the OBMPU does not mandate projects, and the “programmatic CEQA itself to evaluate the [OBMPU] is itself not in any way obligating any party to any such expenditures. [¶] As was said before, the programmatic analysis is simply a cumulative analysis of any projects the parties might choose to agree on and to implement in the future and provide the foundation for that. It also provides a foundation for the parties to negotiate and settle on what projects they may agree to.”

of the cost, 81 million. So in addition, another 20 percent with low interest loans, and then 30 percent was direct pay for this project. So making everything a lot more affordable.”

Peter Kavounas, the General Manager of Watermaster, reiterated they were “doing an environmental analysis of the [OBMPU] at the programmatic level. It is not a prescriptive-type document. It is an enabling-type document. And so we’re looking at it more as a description of potential projects that parties can add to, but not restrict by withholding approval.” Following the close of the meeting, Watermaster took action to: (1) direct staff to meet with all interested stakeholders to evaluate the current status of the OBMPU, consider changes in circumstances, and gather stakeholder input; and with this input, (2) develop a project description for the OBMPU PEIRU (with IEUA as lead agency), and (3) proceed with the effort within the approved budget. Watermaster declined to support an amended motion to proceed with the staff recommendation after the parties approved the project description.

On or about August 26, 2022, appellants (along with Monte Vista Water District, and Monte Vista Irrigation District) challenged Watermaster’s FY 2022/2023 budget action to fund CEQA review of the 2020 OBMP (the OBMPU PEIRU) by moving for a court order invalidating (1) Watermaster’s May 26, 2022, adoption of the FY 2022/2023 budget to the extent it includes funding for the OBMPU PEIRU, and (2) any corresponding assessments. Moving parties further sought an order restraining and preventing Watermaster from expending funds on CEQA review until after parties to the Peace Agreements agreed on an amendment to the 2020 OBMP Implementation Plan and provided direction to Watermaster as to the projects that require CEQA review.

Watermaster and IEUA opposed the motion. Watermaster argued the motion should be denied because approval of the budget was based on the advice and counsel of

the three Pools and the recommendation of the Advisory Committee; the budget is to study actions, not a project; technical work in support of a PEIR is not the same as performing a CEQA duty; and Watermaster's technical support of IEUA was previously ordered on November 18, 1999, by the superior court, and subsequently contractually agreed to under Peace I. Separately, IEUA argued "the pending motion is not so much a challenge of Watermaster's authority but rather a manipulation of the Watermaster process to challenge" IEUA's own separate project (Chino Basin Project), which addresses local water issues involving water exchange, recycled water projects, and new infrastructure and upgrades.

On November 18, 2022, the superior court heard argument from both sides and denied appellants' motion.

II. DISCUSSION

On appeal, appellants raise two main issues: (1) Whether Watermaster may appropriate and expend funds for the OBMPU PEIRU; and (2) Whether Watermaster may designate IEUA as the lead agency. However, in presenting these issues, they raise several minor points.

Chino claims Watermaster's inclusion of line items in its proposed 2022-2023 budget for CEQA review is beyond its authority because (1) CEQA review is required only for discretionary projects carried out or approved by "agencies," (2) CEQA does not apply to actions in carrying out physical solutions under water rights decrees, (3) Watermaster is not an agency for CEQA purposes and CEQA does not apply to its actions, (4) Watermaster has no power to tax or assess the parties outside of the authority

established under the Judgment or by agreement among the parties, and (5) Watermaster has no inherent power to assess money for CEQA review. Chino further asserts Watermaster's funding of the OBMPU PEIRU and endorsement of IEUA as lead agency violate its neutrality, and this challenge to the FY 2022/2023 CEQA assessments is ripe.

Ontario claims (1) Watermaster is not empowered to undertake or fund CEQA review of the OBMPU by IEUA (as lead agency) without the parties' agreement; (2) CEQA does not override the Judgment; and (3) prior CEQA review of the OBMP (OBMP PEIR) does not provide authority for the OBMPU PEIRU. Ontario also asserts Watermaster's funding of the OBMPU PEIRU and endorsement of IEUA as lead agency violate its neutrality, the Advisory Committee's approval of the FY 2022/2023 budget does not render it immune from judicial review, and this challenge to the FY 2022/2023 CEQA assessments is ripe.

A. The Appropriation and Expenditure of Funds for the OBMPU PEIRU.

In challenging the funding for the OBMPU PEIRU in the FY 2022/2023 budget appellants ignore, or discount the value of, the Judgment, prior court orders, Watermaster rules and regulations, the initial PEIR for the OBMP, and past actions approved by the parties. Instead, they argue CEQA does not apply because Watermaster is not an agency, its action does not qualify as a project, and it may not assess money for CEQA review. According to appellants, the Judgment "does not empower Watermaster to implement projects subject to CEQA or conduct CEQA review." However, since this case does not present a typical project specific CEQA case, we reject appellants' attempt to make it one. As we explain, the OBMPU PEIRU, like its predecessor OBMP PEIR, is a *first-tier*

programmatic level EIR used to evaluate an activity that is composed of a series of actions that are related geographically.

“With narrow exceptions, CEQA requires preparation of an EIR before a public agency approves or carries out a project that may have a significant effect on the environment. [Citations.] And, *relevant to our analysis, CEQA permits ““the environmental analysis for long-term, multipart projects to be “tiered,” so that the broad overall impacts analyzed in an EIR at the first-tier programmatic level need not be reassessed as each of the project’s subsequent, narrower phases is approved.””*

[Citation.]” (*Save Livermore Downtown v. City of Livermore* (2022) 87 Cal.App.5th 1116, 1133, italics added.) “““Tiering” refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) with later EIRs and negative declarations on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later project.’ [Citation.] . . . ‘Tiering is proper “when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous environmental impact reports.””

[Citations.]” (*Covina Residents for Responsible Development v. City of Covina* (2018) 21 Cal.App.5th 712, 730; see Pub. Resources Code, § 21068.5 [““Tiering’ or ‘tier’ means the coverage of general matters and environmental effects in an environmental impact report prepared for a policy, plan, program or ordinance followed by narrower or site-specific environmental impact reports which incorporate by reference the discussion in

any prior environmental impact report and which concentrate on the environmental effects which (a) are capable of being mitigated, or (b) were not analyzed as significant effects on the environment in the prior environmental impact report.”.)

Here, the OBMPU PEIRU is the first-tier programmatic level environmental review that analyzes the broad impact of the management program that addresses the Basin’s water quality issues. As such, appellants’ reliance on *Hillside Memorial Park & Mortuary v. Golden State Water Co.* (2011) 205 Cal.App.4th 534, 550, and *Central Basin Municipal Water Dist. v. Water Replenishment Dist. of Southern California* (2012) 211 Cal.App.4th 943, 948-949 [“CEQA does not apply to ministerial actions—actions in which the agency is not permitted to shape the process to address environmental concerns”], for the proposition that CEQA generally applies only to discretionary projects is misplaced because it fails to acknowledge that CEQA also applies to long-term, multipart projects such as the OBMP and the OBMPU. (Pub. Resources Code, § 21068.5 [a plan’s PEIR will cover general matters and environmental effects].)

Turning our analysis to the propriety of budgeting for the OBMPU PEIRU in the FY 2022/2023 budget, as previously noted, Watermaster is charged with discretionary authority and responsibility to adopt a management program to achieve full utilization of the Basin’s resources. To that end, in 1999, Watermaster prepared the OBMP, budgeted for and assessed the parties for expenses associated with the PEIR for the OBMP in FY 1998/1999 and FY 1999/2000, designated (with the parties’ and the superior court’s approval) IEUA as the lead agency, and completed the draft OBMP PEIR prior to execution of Peace 1. The parties to the Judgment (except Monte Vista Water District)

agreed that the OBMP PEIR was necessary because certain programs within the OBMP will necessitate further project-specific CEQA evaluation. Furthermore, certification of the OBMP PEIR was a condition for court approval of Peace I.

More than 20 years later, conditions in the Basin changed as evidenced by a significant increase in the quantities of water held in storage (in excess of the initial limit of 500,000 AF), “California’s three driest years of record (the drought of Water Years 2020-2022)”⁴ following its 2012-2016 drought,⁵ and changes in land use from agricultural to residential/commercial. As the conditions in the Basin changed, the need to update the OBMP became apparent, and an updated OBMP would necessitate an updated PEIR. Thus, in 2020, negotiation of the OBMPU began. Watermaster included the cost for the PEIRU for the OBMPU in its FY 2019/2020 budget; none of appellants challenged Watermaster’s budgeting process or the manner in which its technical consultant and legal counsel participated in the development and review of the OBMPU PEIRU. Rather, the Ap Pool Committee unanimously recommended the budget amendment for this CEQA work, and it was unanimously approved by the Advisory Committee. Due to COVID-19, the process for negotiation of the OBMPU was paused, and the draft PEIRU for the OBMPU (prepared by IEUA) was not certified due to alleged deficiencies asserted by Ontario.

⁴ https://water.ca.gov/-/media/DWR-Website/Web-Pages/Water-Basics/Drought/Files/Publications-And-Reports/Water-Year-2023-wrap-up-brochure_01.pdf, as of November 12, 2024.

⁵ <https://water.ca.gov/drought/>, as of November 12, 2024.

Nonetheless, as COVID-19 restrictions were lifted, Watermaster returned to the task of funding the environmental review of the OBMPU with the adoption of its FY 2022/2023 budget, which allocated \$402,999 of \$9,490,976 for the OBMPU's updated PEIR. To that end, Watermaster complied with its rules and regulations and the Judgment by submitting to, and obtaining the approval of, the Advisory Committee by a vote of 72.141 percent. Watermaster's board of directors then adopted the FY 2022/2023 budget. Contrary to appellants' claims, nothing in the Judgment, Peace Agreements, Watermaster's rules and regulations, or prior practice of the parties prevents Watermaster from budgeting, or approving a budget that includes funding for the OBMPU PEIRU. Rather, the Judgment explicitly permits Watermaster to undertake and fund environmental studies, hydrologic conditions, and operating aspects of implementation of the management program for the Basin.

Paragraph 27 of the Judgment provides that Watermaster "may, with concurrence of the Advisory Committee or affected Pool Committee and in accordance with Paragraph 54 (b), undertake relevant studies of hydrologic conditions, both quantitative and qualitative, and operating aspects of implementation of the management program for Chino Basin." Paragraph 54 (b) defines Special Project Expenses as "special engineering, economic or other studies, litigation expense, meter testing or other major operating expenses. Each such project shall be assigned a Task Order number and shall be separately budgeted and accounted for. General Watermaster administrative expense shall be allocated and assessed against the respective pools based upon allocations made by the Watermaster, who shall make such allocations based upon generally accepted cost

accounting methods. Special Project Expense shall be allocated to a specific pool, or any portion thereof, only upon the basis of prior express assent and finding of benefit by the Pool Committee, or pursuant to written order of the Court.”

As previously agreed by the parties, the “operating aspects of implementation of [the OBMP for the Basin]” are subject to a first-tier programmatic CEQA review because the OBMP “is likely to involve numerous public agencies undertaking activities that may cause direct as well as indirect physical environmental harm.” (Pub. Resources Code, § 21068.5; see, e.g., *County of Butte v. Department of Water Resources* (2023) 90 Cal.App.5th 147, 179 [basin plan may describe beneficial uses for the land and water quality objectives for the area].) Watermaster thus limited CEQA review of the OBMPU to a first tier, or PEIR. As the parties to the Judgment were informed, this level of review anticipates stakeholder engagement to evaluate the updated plan and provides a cumulative analysis of any projects the stakeholders agree should be implemented in the future.

In short, appellants have failed to provide any evidence Watermaster violated the Judgment or any other controlling document by budgeting for the OBMPU PEIRU.

B. Designation of IEUA as the Lead Agency and Watermaster’s Neutrality.

Appellants contend Watermaster’s support for IEUA’s CEQA review of the OBMPU violates the neutrality principle by endorsing IEUA “as the lead agency and the projects it may choose to review, regardless of whether the other parties to the Judgment agree.” We disagree.

Appellants accuse Watermaster of “pre-supposing which public agency should serve as lead agency where projects have not yet been identified and agreed upon.” Not so. Watermaster’s FY 2022/2023 budget included funding for a PEIR for the OBMPU only. The identification of IEUA as lead agency for the OBMPU PEIRU was based on the Peace Agreements and IEUA’s long history of serving as lead agency for environmental impact review of the OBMP. IEUA was approved by the parties, and designated as lead agency by the superior court in 1999. After drafting the PEIR, IEUA prepared addendums thereto, and a draft OBMPU PEIRU in 2020. However due to COVID-19, the process for negotiation of the OBMPU was paused, and the parties focused attention on the local storage limitation solution. The draft OBMPU PEIRU was not certified by IEUA’s board of directors because Ontario alleged it had deficiencies. Nonetheless, in 2022, by a vote of 72.141 percent, the advisory committee approved Watermaster’s FY 2022/2023 budget, which included funding for the OBMPU PEIRU by IEUA.

Nothing in the FY 2022/2023 budget “pre-supposes” IEUA should or will be lead agency for any project not yet identified or agreed upon. Appellants’ claims to the contrary amount to nothing more than mere speculation. For example, appellants mention the Chino Basin Program (CBP), a “billion-dollar potential project discussed in Watermaster’s OBMPU.” In response, IEUA acknowledges CBP as its “own project,” and explains that CBP “has completed and certified its CEQA review including critical analysis and comments from state and local agencies . . . independent of the [OBMPU] PEIRU.” Nonetheless, according to appellants, IEUA’s role as lead agency for the

OBMPU PEIRU gives “it the ability to advance its own proposed projects . . . at the expense of other parties to the judgment, despite differing priorities among those parties and potential conflicts of interest.” We disagree.

IEUA’s interest in its own standalone project does not disqualify it from serving as lead agency for the OBMPU PEIRU. (*Center for Biological Diversity v. County of San Bernardino* (2016) 247 Cal.App.4th 326, 345 [lead agency “need not be free from receiving any benefit from the project, as long as that agency is able to fully and fairly provide the necessary environmental information required by CEQA’s processes”].) Be that as it may, appellants point out that Ontario has sued IEUA, alleging its evaluation of an alternative advanced water treatment—proposed by Ontario in connection with the CBP—is inadequate. However, the merits of an action between Ontario and IEUA over competing projects are irrelevant to the issues before this court, which challenge Watermaster’s funding of the OBMPU PEIRU by IEUA. Moreover, according to Shivaji Deshmukh, general manager of IEUA, IEUA has implemented approximately 30 of its own projects that fall within the umbrella of the OBMP PEIR, yet no one asserted that IEUA used its lead agency status for the PEIR to favor its own projects over the projects of others.

In short, Watermaster’s designation of IEUA as lead agency for the OBMPU PEIRU neither violates its neutrality nor presupposes a preference that IEUA lead any or all future specific projects. It merely affirms IEUA’s prior designation as lead agency for the PEIR of the updated OBMP. Given IEUA’s history as lead agency, Watermaster’s decision is economically sound.

C. Appellants’ Challenge is Not Premature.

Appellants contend the superior court erred by adopting Watermaster’s argument that appellants’ challenge is premature. We agree.

Appellants challenge Watermaster’s May 26, 2022, action—adopting the FY 2022/2023 budget. Paragraph 31(c) of the Judgment provides: “Time for Motion. Notice of motion to review any Watermaster action, decision or rule shall be served and filed within ninety (90) days after such Watermaster action, decision or rule, *except for budget actions, in which event said notice period shall be sixty (60) days.*” While Watermaster and appellants (along with others) were engaged in ongoing discussions about disputed budget items, Watermaster extended the deadline to challenge its budget action by an additional 30 days from its July 28, 2022, special meeting. Accordingly, appellants’ challenge is not premature.

III. DISPOSITION

The order denying appellants’ motion is affirmed. Respondents are awarded costs on appeal.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

McKINSTER
Acting P. J.

We concur:

MILLER
J.

CODRINGTON
J.