

*Served 11/2
re 10/28 hearing*

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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF SAN BERNARDINO**

11 **CHINO BASIN MUNICIPAL WATER**
12 **DISTRICT,**

13 Plaintiff,

14 v.

15 **CITY OF CHINO, et al.,**

16 Defendants.

Case No.: RCV 51010 (NO FEE GOVT.
CODE §6103)

**OBJECTION OF STATE OF
CALIFORNIA TO PROPOSED
ORDER**

Hearing Date
Date: October 28, 1999
Time: 1:30 p.m.
Dept: R-8

Specially assigned to the Honorable
Judge J. Michael Gunn

19 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

20 The State of California respectfully files this objection to the Proposed Order
21 lodged with the Court on November 1, 1999.

22 The State does not agree with the language proposed in Paragraph 2. The Court
23 did not make the pronouncements regarding the extent of its jurisdiction that have been
24 included therein. The additional language constitutes a serious inaccuracy.

25 Therefore, I recommend deleting the following:

- 26 1. Paragraph 2, line 4 - delete "water rights" and "the."
- 27 2. Paragraph 2, lines 5 and 6 - delete "in turn, affect the Court's ability to
28 manage the water resources of the Chino Basin under the Judgment in this Case."
- 3. Paragraph 2, lines 9 - 12- delete "until such time as the Court is satisfied

1 that those proceedings will not affect the Court's reserved jurisdiction under the Judgment
2 to manage the water resources of the Chino Basin according to Article X, Section 2 of the
3 Constitution of the State of California."

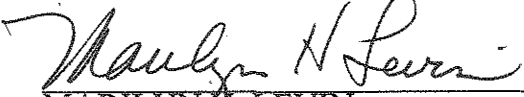
4 A copy of Monte Vista's proposed order with the recommended deletions is
5 attached.

6 Dated: November 1, 1999

Respectfully Submitted,

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO

CHINO BASIN MUNICIPAL WATER

DISTRICT,

Plaintiff,

v.

CITY OF CHINO, et al.,

Defendants.

CASE NO. RCV 51010

Assigned For All Purposes to
The Honorable J. Michael Gunn
Department R-8

[PROPOSED] ORDER

Hearing Date: October 28, 1999
Time: 1:30 p.m.
Dept. R-8

The Motion by Defendant Monte Vista Water District for an "Order Scheduling Periodic Status Conferences and Directing Inland Empire Utilities Agency to Provide Periodic Reports to the Court, at the Status Conference Concerning the Proceeding Before the Sate Water Resources Control Board Involving the Santa Ana River" came on for hearing at the time and place above noted, the Hon. Judge J. Michael Gunn, presiding. Appearances of the Parties by Counsel were:

Arthur G. Kidman for Defendant and Moving Party, Monte Vista Water District; Jean Cihigoyenette for Plaintiff Inland Empire Utilities Agency (formerly Chino Basin Municipal Water District); Tari Cody for Chino Basin Watermaster, James E. Erickson for Defendant City of Chino; Gene Tanaka and Jim Morris for Defendants Cucamonga Water District and Western Municipal Water District of Riverside County; Thomas Bunn, III for Defendant City of Pomona; Marilyn Levin for the Defendant State of California, (appearance expressly limited to exclude representation of the State Water Resources Control Board); Steven Kennedy for Defendant Three Valleys Municipal Water District; Dan McKinney for Chino Basin Watermaster, Overlying Agriculture Pool Committee. Upon review of the papers submitted by the parties, and upon hearing arguments from counsel, the Court, being fully apprised of the matters before it, rules as follows:

1. The "recommendation" by Chino Basin Watermaster that the Court issue an Order to Show Cause to the State Water Resources Control Board concerning whether said Board should be enjoined from granting certain applications to appropriate water in a manner which could adversely affect the management of Chino Basin is refused. Aside from questions about whether the Court's jurisdiction over the State of California in this case extends to and includes jurisdiction over the water right administration functions of the State Water Resources Control Board, the Court questions whether the matters currently pending before the State Water Resources Control Board are ripe for judicial review or intervention and whether a case can be made, showing irreparable harm, sufficient to even consider injunctive relief.

2. The Court agrees with the concerns raised by Monte Vista Water District and the Chino Basin Watermaster that proceedings currently pending before the State Water Resources Control Board concerning appropriations from the Santa Ana River create the appearance that possible ~~water right~~ determinations by that Board could affect the water resources in the Chino Basin and, ~~in turn, affect the Court's ability to manage the water resources of the Chino Basin under the Judgment in this Case.~~ The Court believes that it and the parties before it should be kept fully apprised of the matters pending before the State Water Resources Control Board concerning appropriations from the Santa Ana River, ~~until such time as the Court is satisfied that those proceedings will not affect the Court's reserved jurisdiction under the Judgment to manage the water resources of the Chino Basin according to Article X, Section 2 of the Constitution of the State of California.~~ The Court, therefore, grants the motion for Status Conferences and Status Reports. The Court reserves for further order the questions of how frequently and over what period of time the Status Conferences and Status Reports will be required.

WHEREFORE, IT IS HEREBY ORDERED:

In addition to other matters in this case that have been scheduled before the Court on that date, this Court shall hold a Status Conference on November 18, 1999 at 1:30 p.m. in Department R-8. The purpose of the Status Conference shall be to apprise the court concerning the status of proceedings pending before the State Water Resources Control Board involving water appropriations from the Santa Ana River. Not later than five Court days before said Status Conference, the Inland Empire Utilities Agency and the Western Municipal Water District of Riverside County each shall file with the Court and the Chino Basin Watermaster, and serve upon counsel of record in this case, a written Report concerning the status of proceedings pending before the State Water Resources Control Board involving water appropriations from the Santa Ana River.

Dated: _____

J. Michael Gunn, Judge
Superior Court
County of San Bernardino

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CHINO BASIN MUNICIPAL WATER DISTRICT V. CITY OF CHINO et al.
CASE NO. RCV 51010

PROOF OF SERVICE

I, Genia van Schaik:

1. I am over the age of 18 and not a party to this action. My business address is Chino Basin Watermaster, 8632 Archibald Avenue, Suite 109, Rancho Cucamonga, California 91730.


2. On today's date, I served the documents identified below by placing a true and correct copy of same in sealed envelopes addressed to each of the addresses shown on the attached mailing list #1.

OBJECTION OF STATE OF CALIFORNIA TO PROPOSED ORDER

3. I then placed said envelopes for collection, processing and mailing by Chino Basin Watermaster personnel with the United States Postal Service on today's date, following Chino Basin Watermaster's ordinary business practices. Pursuant to these practices, with which I am familiar, such sealed, addressed envelopes are deposited in the ordinary course of business with the United States Postal Service on the same date they are collected and processed, with postage thereon fully prepaid.

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

Executed on November 2, 1999, at Rancho Cucamonga, California.


Genia van Schaik

AAA AA
MAILING LIST 1
UPDATED 08/30/99

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