

Chino
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1 JIMMY L. GUTIERREZ (State Bar No. 59448)
2 A PROFESSIONAL CORPORATION
3 12616 Central Avenue
4 Chino, CA 91710
5 (909) 591-6336
6 (909) 628-9803 Fax

7 Attorney for CITY OF CHINO

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF SAN BERNARDINO, WEST DISTRICT**

10
11 **CHINO BASIN MUNICIPAL WATER**
12 **DISTRICT,**

13 **Plaintiff,**

14 **vs.**

15 **CITY OF CHINO,**

16 **Defendant.**

CASE NO. RCV 51010

**CITY OF CHINO MEMORANDUM OF
POINTS AND AUTHORITIES
CONCERNING EXEMPTION OF OBMP
ADOPTION FROM THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT**

**Date: November 18, 1999
Time: 1:30 p.m.
Dept: R-8**

**Specially Assigned to the Honorable Judge J.
Michael Gunn**

[Fee Exempt per Government Code §6103]

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20 **OBMP ADOPTION**

21 Phase I of the Optimum Basin Management Plan (OBMP) has been received by the
22 Watermaster as a status report, subject to further revision; and the OBMP will be adopted by the
23 Watermaster upon its completion of the implementation provisions of Phase II of the OBMP.

24 **EXEMPTION OF PROJECTS FROM CEQA**

25 The "project" for which compliance with the California Environmental Quality Act
26

1 ("CEQA") is required is defined by CEQA in Public Resources Code §21065, and by the CEQA
2 Guidelines in 14 Cal. Code of Regs. §§15357, 15377 and 15378. However, the Watermaster has
3 concluded that while it may be arguable that adoption of the OBMP is exempt under the provisions
4 regarding "Feasibility and Planning Studies" in CEQA Guidelines §15262 or "Information
5 Collection", in CEQA Guidelines §15306, the OBMP adoption is not clearly excluded from the
6 definition of a project or included within the definition of these existing exemptions, it would be
7 prudent to comply with CEQA.

8 However, additional categorical exemptions from CEQA may be secured either by
9 legislation or by administrative action of the Secretary of the Resources Agency.

10 A categorical exemption for adoption of the OBMP project could be secured by legislation
11 similar to that provided by Water Code §§10652 and Section 10851 for such projects as "Urban
12 Water Management Plans" and "Agricultural Water Management Plans."

13 A categoric exemption for adoption of the OBMP project also could be secured
14 administratively by the Secretary of the Resources Agency addition of the OBMP adoption to its ". .
15 . list of classes of projects which have been determined not to have a significant effect on the
16 environment and which shall be exempt" from CEQA under Public Resources Code § 21084(a) and
17 CEQA Guidelines §15300. CEQA Guidelines §15300.3 provides that "Any public agency may, at
18 any time, request that a new class of categorical exemptions be added, . . ." by a request in writing
19 to the Office of Planning and Research.

20 CONCLUSION

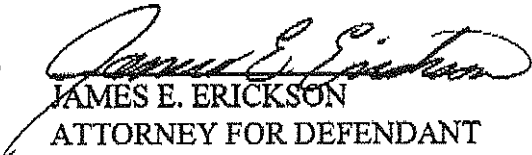
21 The Inland Empire Utilities Agency ("IEUA") has prepared and distributed a "Notice of
22 Preparation of a Program Environmental Impact Report to Address Implementation of the Optimum
23 Basin Management Program for the Chino Basin," in which the described project is the
24 implementation of the OBMP for the Chino Ground Water Basin developed and adopted by the
25 Watermaster. However, the OBMP will be adopted by the Watermaster rather than by IEUA, and
26 no preparation of CEQA eminent documentation has been proposed for that adoption.

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In order to foreclose any legal challenge of the OBMP for failure to comply with CEQA, it is recommended that the Court direct the Watermaster to assist one or more public agencies to seek a categorical exemption for the adoption itself of the OBMP, both by legislation and by administrative action of the Secretary of Resources.

DATED: November 17, 1999

JIMMY L. GUTIERREZ
A Professional Corporation

By: 
JAMES E. ERICKSON
ATTORNEY FOR DEFENDANT

DAVID B. ANDERSON	DEPARTMENT OF WATER RESOURCES	Phone# (916) 653-5577	Fax# (916) 653-0952
RICHARD ADAMS II	ALVAREZ-GLASMAN & CLOVEN	Phone# (909) 620-2071	Fax# (909) 620-3609
WILLIAM J. BRUNICK ESQ.	BRUNICK ALVAREZ & BATTERSBY	Phone# (909) 889-8301	Fax# (909) 388-1889
THOMAS S. BUNN III	LAGERLOF SENEAL BRADLEY GOSNEY & KRUSE	Phone# (626) 793-9400	Fax# (626) 793-5900
JEAN CHIGOYENETCHE	CHIGOYENETCHE GROSSBERG & CLOUSE	Phone# (909) 483-1850	Fax# (909) 483-1840
ROBERT DOUGHERTY	COVINGTON & CROWE	Phone# (909) 983-9393	Fax# (909) 391-6762
FREDERIC FUDACZ	NOSSAMAN GUTHNER KNOX & ELLIOTT LLP	Phone# (213) 612-7823	Fax# (213) 612-7801
JIMMY GUTIERREZ	ATTORNEY-CITY OF CHINO	Phone# (909) 591-6336	Fax# (909) 628-9803
MARK HENSLEY	BURKE WILLIAMS & SORENSON	Phone# (213) 236-0600	Fax# (213) 236-2700
WAYNE LEMIEUX	LEMIEUX & O'NEILL	Phone# (805) 495-4770	Fax# (805) 495-2787
STEVEN KENNEDY	BRUNICK ALVAREZ & BATTERSBY	Phone# (909) 889-8301	Fax# (909) 388-1889
ARTHUR KIDMAN	MC CORMICK KIDMAN & BEHRENS	Phone# (714) 755-3100	Fax# (714) 755-3110
JARLATH OLAY	DEPUTY GENERAL COUNSEL MWD	Phone# (213) 217-6325	Fax# (213) 217-6890
MARILYN LEVIN	STATE OF CALIFORNIA	Phone# (213) 897-2612	Fax# (213) 897-2802
JAMES L MARKMAN	RICHARDS WATSON & GERSHON	Phone# (714) 990-0901	Fax# (714) 990-6230
THOMAS H MC PETERS	MC PETERS MC ALBARNEY SHIMPF & HATT	Phone# (909) 792-8919	Fax# (909) 792-6234
DAN MC KINNEY	REID & HELLYER	Phone# (909) 682-1771	Fax# (909) 686-2415
JOHN SCHATZ	COUNSEL-JCSD	Phone# (949) 495-3175	Fax# (949) 249-1881
ANNE J SCHNEIDER	ELLISON & SCHNEIDER	Phone# (916) 447-2166	Fax# (916) 447-3512
JESS SENEAL	LAGERLOF SENEAL BRADLEY GOSNEY & KRUSE	Phone# (626) 793-9400	Fax# (626) 793-5900
TIMOTHY J RYAN	SAN GABRIEL VALLEY WATER COMPANY	Phone# (626) 448-6183	Fax# (626) 448-5530
GENE TANAKA ERIC GARNER	BEST BEST & KRIEGER LLP	Phone# (909) 686-1450	Fax# (909) 686-3083
ANNE T THOMAS	BEST BEST & KRIEGER LLP	Phone# (909) 686-1450	Fax# (909) 686-3083
SUSAN TRAGER	LAW OFFICES OF SUSAN M TRAGER	Phone# (949) 752-8971	Fax# (949) 863-9804

TRACY STEWART

11/17/99

CHIEF OF WATERMASTER SERVICES (909) 484-3888
(909) 484-3888 Fax