

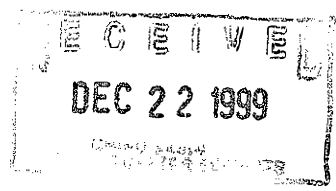
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9 FOR THE COUNTY OF SAN BERNARDINO

10  
11 CHINO BASIN MUNICIPAL WATER )  
12 DISTRICT, )  
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CASE NO. RCV 51010  
FURTHER STATUS REPORT ON  
PETITIONS TO SET ASIDE FULLY  
APPROPRIATED STREAM STATUS OF  
SANTA ANA RIVER

Plaintiff(s),  
vs.  
CITY OF CHINO, et al.,  
Defendant(s).

COMES NOW INLAND EMPIRE UTILITIES AGENCY ("IEUA") which submits the following status report regarding the petitions to set aside fully appropriated stream status of the Santa Ana River.

I.  
HEARING BEFORE THE STATE WATER  
RESOURCES CONTROL BOARD

On December 7 and 8, 1999, the State Water Resources Control Board conducted hearings regarding the applications of Orange County Water District and San Bernardino Valley Municipal Water District and Western Municipal Water District, regarding petitions to set aside the fully appropriated streams status of the Santa Ana River. At the hearing in Sacramento, IEUA submitted the testimony of Traci Stewart, Dr. Douglas Drury and William Carroll. Orange County Water District submitted the testimony of William R. Mills, Jr. in support of their petition.

1 In addition to the foregoing, policy statements were made by several representatives from the  
2 Inland Empire including, but not limited to, Mr. Jeske from the City of Ontario, Mr. Neufeld from  
3 Cucamonga County Water District, and Mr. Richard Atwater from Inland Empire Utilities Agency.  
4 The policy statements reflected a consensus amongst the various agencies within the Inland Empire  
5 that under no circumstances should the Judgment in the case of Orange County Water District v. City  
6 of Chino, et al. be in any way modified by the State Board. It was asserted that whatever surplus  
7 water may exist, if any, such water would soon be used, of necessity, to implement the Optimum  
8 Basin Management Plan. Therefore, there will be no surplus flows available to Orange County as  
9 they have asserted in their petition.

10 Orange County Water District argued that indeed there are surplus flows within the Santa  
11 Ana River that reach Prado Dam. What rights they expect to obtain by way of their petition as  
12 against the parties of the upper region remains unclear even after the hearing. However, it can be  
13 safely said that under no circumstances does Orange County Water District want the entities of the  
14 upper region to export water from the upper region for sale.

15 Additionally, Orange County Water District relied upon history in their argument stating that  
16 the upper region has done little over the last 30 years to conserve the flows which ultimately reach  
17 Prado and, they believe it unlikely that that will change in the near future. Since history has  
18 demonstrated the existence of the surplus flows in the past, it is therefore reasonable to conclude that  
19 they will exist in the future.

## 20 II.

### 21 TESTIMONY OF TRACI STEWART

22 Ms. Stewart testified that an Optimum Basin Management Program ("OBMP") was being  
23 prepared by the Watermaster pursuant to court order. She testified that the parties have spent more  
24 than Three Million Dollars since the development of the OBMP began and that it is expected to be  
25 completed sometime in the year 2000. Of significance is that under the OBMP, conservation of  
26 storm flows and recycled water will be increased to maintain and enhance the safe yield of the basin  
27 in the ultimate amount of 30,000 to 40,000 acre feet per year each. Additional water was  
28 contemplated under the original Judgment and, because the increases were planned and accounted

1 for, there is no change in circumstances warranting a change in the fully appropriated status of the  
2 river. Indeed, the water is appropriated by the appropriative pool under the Judgment and the OBMP  
3 which is presently in its final stages of development.

4 It was stressed that the ability to fully utilize the native water as well as reclaimed water is  
5 essential to managing the Chino Basin and any interference with the utilization of such water would  
6 have a significant adverse impact upon the basin and the OBMP.

### 7 III.

#### 8 TESTIMONY OF DR. DOUGLAS DRURY

9 Dr. Drury's testimony also focused on the OBMP especially with regard to water recharge  
10 programs and maximizing the reuse of effluent so as to minimize the use of State Project water. Dr.  
11 Drury's testimony centered around not only projects that were in the planning stage and which would  
12 help to accomplish the region's goals regarding recharge and increased use of recycled water but,  
13 more importantly, to focus upon projects which were already being implemented in furtherance of  
14 accomplishing those goals.

15 Such programs include the Ely Basin Recharge Project, the initiation of an Environmental  
16 Impact Report for the Etiwanda/Jurupa Basins and the construction and implementation of a  
17 reclaimed water system serving the cities of Chino and Chino Hills with dual piping. The testimony  
18 stated that the present usage of recycled water in our region is 4,100 acre feet per year with an  
19 anticipated increase to 43,200 acre feet per year by the year 2010. That amount is expected to  
20 increase to 71,700 acre feet per year by the year 2020. All of these plans are based upon delivering  
21 17,000 acre feet per year of recycled water to Orange County as required under the 1969 Judgment.  
22 Therefore, any amendment to the requirements of the Judgment would have a dramatic impact upon  
23 these programs.

24 Dr. Drury acknowledged that additional facilities need to be constructed to accomplish the  
25 region's goals. These include creating recycled water distribution systems, refurbishing spreading  
26 basins, drilling monitoring wells and constructing a pipeline to bring Metropolitan Water District  
27 water to the basin. However, Inland Empire Utilities Agency's ultimate goal is to meet the Santa  
28 Ana River responsibilities of 17,000 acre fee per year while at the same time utilizing all recycled

1 water for reuse or groundwater recharge within the Agency's service area.

2 IV.

3 TESTIMONY OF WILLIAM CARROLL

4 Mr. Carroll was called as a witness in rebuttal. Mr. Carroll was an active participant in the  
5 negotiations leading up to the stipulated Judgment in the case of Orange County Water District v.  
6 City of Chino. et al. He testified as a percipient witness to the discussions between the parties at that  
7 time as well as the understanding with regard to surplus water.

8 Mr. Carroll testified that it was fully anticipated by the parties to the Judgment that, as  
9 development in the upper region progressed, flows within the Santa Ana River would increase. He  
10 stated that the degree of increased population and urbanization in the upper region was expected by  
11 the parties they did not know, however, how long that process would take. Originally, the parties  
12 had expected to deliver 47,000 acre feet of water per year to Prado Dam for Orange County.  
13 However, Orange County wanted an annual guaranty of water and, the upper region parties were not  
14 comfortable in providing a guaranty of 47,000 acre feet per year. As a result, they agreed to guaranty  
15 the amount of 42,000 acre feet per year in aggregate the figure ultimately incorporated into the  
16 Judgment. Mr. Carroll further testified that surplus water was fully anticipated by the parties as  
17 evidenced by the inclusion in the Judgment of a formula to calculate credits for surplus water that  
18 actually did arrive at Prado Dam. The argument simply stated therefore, is that if this water upon  
19 which Orange County Water District relies as surplus water is something new to the parties to the  
20 Judgment, why was a formula to calculate credits included in the Judgment in the first place?

21 In short, the testimony of Mr. Carroll was introduced to demonstrate that in fact the surplus  
22 water presently found within the Santa Ana River is not a changed circumstance from the time the  
23 Judgment was created but rather, fully anticipated between the parties. Therefore, no changed  
24 circumstances exist and the declaration of fully appropriated streams should remain in place.

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V.

CONCLUSION

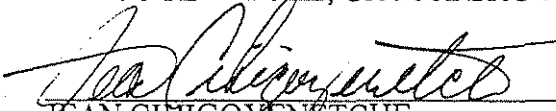
Closing statements will be made by way of written brief to be filed on or before February 11, 2000. The transcript of oral proceedings is presently being compiled by the court reporter and we expect to receive it shortly. We have no time table as to when the State Board will issue its ruling.

It is our impression that the terms and conditions of the Judgment will not be affected, in any way by the State Board's ruling. The true issue underlying all of these activities, it seems, is the desire by Orange County Water District to prevent upper region entities from exporting water from the upper region to Orange County. While this was not an issue for the State Board at the most recent hearing, we expect it will be an issue which will have to be dealt with in the near future.

Respectfully submitted,

Dated: December 21, 1999

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15 CITY OF CHINO, et al., )

16 Defendant(s). )

CASE NO. RCV 51010

**PROOF OF SERVICE BY MAIL**

17 I am employed in the County of San Bernardino, State of California and am over the age of  
18 18 years. I am not a party to the within action. My business address is 3602 Inland Empire  
19 Boulevard, Suite C315, Ontario, California.

20 On or before December 21, 1999, I served the documents described as: **FURTHER**  
21 **STATUS REPORT ON PETITIONS TO SET ASIDE FULLY APPROPRIATED STREAM**  
22 **STATUS OF SANTA ANA RIVER** on the interested parties to this action in the manner described  
23 below and addressed as indicated on the attached list.

24 I caused the documents to be enclosed in a sealed envelope with postage thereon fully paid,  
25 and to be deposited in the United States mail in Ontario, California. The documents were to be  
26 deposited with the United States Postal Service on the same day.

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I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on December 21, 1999, at Ontario, California.

  
KIM PEREZ

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