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San Bernardino County Clerk

APR 19 2000

By *Luwan King* Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO - RANCHO CUCAMONGA DIVISION

11 CHINO BASIN MUNICIPAL WATER DISTRICT,)

CASE NO. RCV. 51010

12 Plaintiff,)

Judge: Honorable J. MICHAEL GUNN

13 v.)

14 THE CITY OF CHINO,)

STATUS REPORT

15 Defendants.)

Date: April 19, 2000
Dept: R8

16 _____)
17 AND RELATED CROSS-ACTIONS.)
18 _____)

19 In its order of April 6, 2000, this Court ordered the parties to provide a written status report
20 on the (i) the coordination, integration and implementation of subcommittee plans and presentations
21 for satisfactory conclusion of the OBMP process including final memoranda of agreement; (ii) the
22 actions of the Watermaster and the Inland Empire Utilities Agency to complete OBMP documents,
23 particularly the Draft Environmental Impact Report; and (iii) the status of the work by the
24 subcommittees on recharge and yield maintenance in addition to any other relevant matters. The
25 report is filed in fulfillment of that request.

26 At a March 5, 1998 meeting of Watermaster, it committed to developing an OBMP and
27 began an ambitious meeting schedule to develop its scope and ultimately the Phase I Report. In both
28 the OBMP scope and Phase I Report submitted to the Court, three parallel processes that needed to

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1 occur were identified. They were the institutional, the technical and the financial processes. Legal
2 issues, if any, were to be included and resolved in the institutional process. Over the course of the
3 last year, suggestions have been made that the institutional part of the process would need to include
4 negotiations of some form to resolve issues and to develop synergistic scenarios to do so.

5 Two significant challenges impeded this approach. First, the Watermaster process itself is
6 "formal" and second, many of the participants initially believed resolution of the institutional issues
7 had to occur through the traditional and established Watermaster process. In an effort to resolve
8 these two significant challenges, the concept of "subcommittees" was revitalized and implemented
9 in mid 1998. This approach was intended to more informally develop synergistic recommendations
10 to resolve various issues, and then to feed the recommendations back into the more "formal"
11 Watermaster process. Essentially, using this approach has allowed the technical and a significant
12 portion of the financial processes to be brought to near closure. However, the significance of the
13 Special Referee's advice from March of 1998 has only recently come to a more full understanding
14 of the parties. In her wisdom, she recognized that meaningful deliberation and negotiation would
15 have to occur, and that a complementary effort to accomplish this needed to be established.

16 Recently, parties to the judgement began meeting regularly in confidential settlement
17 discussions to resolve legal and institution impediments. The attorneys participating in this process
18 notified the Court of their efforts at the April 6, 2000 status conference. The settlement discussions
19 are occurring at a very rapid pace, with much effort and money being expended by the participating
20 parties. It is occurring in parallel with the ongoing Watermaster process. It is intended to develop
21 a consensus-based recommendation in the form of an agreement among the parties to be interjected
22 back into the Watermaster process within the current time-frame established by the Court and to
23 enable Watermaster to undertake its various actions including the further execution of memoranda
24 and agreements without resort to litigation.

25 **I. Status of the Work by the Subcommittees on Recharge and Yield Maintenance and**
26 **Any Other Efforts on Behalf of Watermaster.**

27 The Yield Maintenance Subcommittee completed its efforts to develop of an initial draft
28 memorandum of agreement (MOA) by the February 15, 2000 deadline. Immediately thereafter,

1 discussions began on the benefit/cost assessment tool analyses to work on resolution of the cost
2 allocation issue. By early March, the Yield Subcommittee members felt they had fulfilled their
3 mission, and that more meaningful discussion on these topics now needed to occur at the Joint Pool
4 and Advisory Committee level. No additional meetings of this subcommittee are anticipated at this
5 time.

6 The Recharge Subcommittee completed the development of an initial draft recharge
7 memorandum of agreement by January of 2000. Respecting that the efforts of the committee
8 members needed to be focused more on the Yield Subcommittee tasks until their draft MOA was
9 completed, the Recharge Subcommittee held meetings on January 11th and February 29th only. A
10 meeting of this subcommittee is currently scheduled for April 18, 2000 at 8:30 a.m. at the
11 Watermaster offices. The committee will again begin to work on development of a recommended
12 recharge policy for Watermaster. Again, an agreement between the various interests would enable
13 the MOA to be executed without challenge.

14 **II. Actions of Watermaster and the Inland Empire Utilities Agency to Complete the**
15 **OBMP Documents, Particularly the Draft Program Environmental Impact Report.**

16 On April 10, 2000, a meeting was held between Watermaster and Watermaster consultants,
17 and Dodson and Associates. Watermaster was informed at that meeting that completion of the Draft
18 Environmental Impact Report (DEIR) is still at least four weeks away. Finding this delay
19 unacceptable, Watermaster has transmitted both a verbal and written request that Dodson and
20 Associates expedite completion of the DEIR without delaying for an analysis of a more expansive
21 conjunctive use element. Watermaster is informed that IEUA concurs with this request and that it
22 is making all reasonable efforts to release the draft EIR as soon as it is prudent to do so.

23 Watermaster is making every effort to ensure a timely release of the Draft Environmental
24 Impact Report. At the same time, the parties acknowledge that there may be delays in the
25 completion of environmental review. Nevertheless, the parties are willing to jointly support an
26 approach that will not require a delay in the execution of material commitments and to demonstrate
27 compliance with the prior orders of the Court.

28

1 Specifically, the parties acknowledge the cases of *City of Vernon v. Board of Harbor*
2 *Comms.* (1998) 63 Cal.App.4th 677 [74 Cal.Rptr.2d 497] and *Stand Tall on Principles v. Shasta*
3 *Union High School Dist* (1991) 235 Cal.App.3d 772, as modified by *Stand Tall on Principles v.*
4 *Shasta Union High School Dist* (1991) 235 Cal.App.3d 1583A, review denied.) as providing
5 authority for Watermaster to adopt the OBMP and execute potential agreements so long as the
6 actions do not “commit them to a *definite* course of action” by making any approval or agreements
7 conditional and subjecting them to the subsequent completion of environmental review.

8 This methodology would allow each decision-maker the opportunity to fully respond to
9 information that may be developed during the environmental review process. Accordingly, in the
10 event that the final environmental documentation is not timely, Watermaster and the parties would
11 still proceed with the approval and necessary agreements that comport with the reservation of
12 discretion outlined in the *City of Vernon and Stand Tall* cases.

13 **III. Coordination, Integration, and Implementation of the Formal and Informal Processes**
14 **for Satisfactory Conclusion of the OBMP Process Including Final Memoranda of**
15 **Agreement.**

16 To facilitate the coordination and integration of the activities of the more formal
17 subcommittee and Watermaster processes, and the informal institutional process, the agendas for the
18 formal meetings include an agenda item entitled “Report Regarding Attorney/Representative
19 Meetings – Information and Possible Action”. This agenda item allows any recommendations
20 developed through the informal institutional process to be interjected into and acted upon by
21 Watermaster in the formal Watermaster process. Additionally, the Watermaster Board members are
22 being provided with frequent updates on the informal process by Watermaster Counsel.

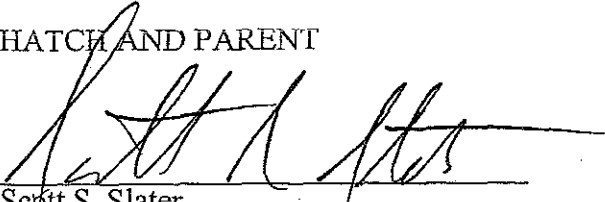
23 The parties will continue to meet in settlement conferences on April 19, April 26, May 1 and
24 May 2, 2000. The parties all hope that its efforts will conclude with a broad draft agreement that is
25 acceptable to all parties. This will allow the Special Referee to be provided with a status report on
26 May 4, 2000 at the workshop scheduled for 9:00 a.m. It is further anticipated that the Joint Pools
27 and Advisory Committee, and the Watermaster Board will be able to have final discussions
28 regarding completion of the Implementation Plan and MOA’s and be able to submit them to the

1 Court by the June 15, 2000 filing date.

2 The Watermaster respectfully submits that the institutional and Watermaster processes were
3 established to work in parallel. This should facilitate resolution of the remaining issues of the parties
4 and the development of a workable and meaningful OBMP.

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PROOF OF SERVICE

I declare that:

I am employed in the County of San Bernardino, California. I am over the age of 18 years and not a party to the within action. My business address is Chino Basin Watermaster, 8632 Archibald Avenue, Suite 109, Rancho Cucamonga, California 91730; telephone (909) 484-3888.

On April 19, 2000, I served the documents identified below by placing a true and correct copy of same in sealed envelopes for overnight delivery by United States Postal Service mail at Rancho Cucamonga, California, to each of the addresses listed on the attached Attorneys Service List and Mailing List 1:

OPTIMUM BASIN MANAGEMENT PROGRAM STATUS REPORT
Dated April 19, 2000

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Rancho Cucamonga, California, on April 19, 2000.


Michelle Lauffer

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